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# Municipal Freedom

## A Study of the Commission Government

By OSWALD RYAN
*of the Indiana Bar*
*Formerly of the Department of Government, Harvard University*

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WITH AN INTRODUCTION
BY
A. LAWRENCE LOWELL
*President of Harvard University*

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1915

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To
EDWARD C. TONER
OF INDIANA
WHOSE POLITICAL ACTS HAVE
BEEN IMBUED WITH HIS OWN
INTELLECTUAL HONESTY AND
HIGH PERSONAL INTEGRITY

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# BIOGRAPHICAL NOTE

Although he writes this volume at the age of twenty-six, Oswald Ryan is already entitled to speak authoritatively on municipal problems. He was educated in the common schools of Anderson, Indiana, Butler College, Harvard College, and the Harvard Law School. While an undergraduate at Harvard he was awarded in 1910 the Baldwin Prize by the National Municipal League for his "Commission Plan of City Government," which was published by the *American Political Science Review*. In 1911 he became a joint contributor to "City Government by Commission" (New York, 1911) under the editorship of Clinton Rogers Woodruff. In the same year he was appointed assistant to Albert Bushnell Hart, head of the department of government at Harvard, and entered upon the work of teaching at Harvard and Radcliffe colleges. During the years 1911–13 he took an active part as a writer and speaker in the movement for charter reform in Massachusetts, and in 1911 he participated in the fight for the passage through the Massachusetts Legislature of a permissive commission government act which he had drafted. He left Cambridge in June, 1913, to take up the practice of law at Anderson, Indiana, and in the following fall waged a vigorous campaign

for the mayoralty of that city as the nominee of one of the leading parties. This was the first municipal battle to be waged in Indiana on a constructive program of municipal advance, and it had a far-reaching educative effect. Mr. Ryan was defeated by a small margin, but one year later the same city gave him a record-breaking plurality as candidate for state's attorney of the fiftieth Indiana Judicial District. He is now recognized as one of the practical leaders in the municipal movement in Indiana.

Mr. Ryan is known as a contributor to several national periodicals, including *Harper's Weekly*, the *American Political Science Review*, the *Popular Science Monthly*, and the *New England Magazine*. The present volume is based largely on personal investigations by the writer in progressive cities in various parts of the United States since 1910.

# FOREWORD

I wish here to express my thanks to Mr. A. Lawrence Lowell, Harvard's distinguished president, who writes the Introduction to this little book; to Professor Augustus Raymond Hatton, of the Department of Political Science at Western Reserve University; and to Mr. Paul P. Haynes, of the Indiana bar, for their helpful criticisms in connection with the revision of my manuscript. To my esteemed friend Professor Arthur N. Holcombe, with whom I was for a time associated in teaching at Harvard, I am grateful for a similar kindness. I am indebted to Miss Mary Murray, of Newton, Massachusetts, formerly of Radcliffe College, for certain significant data collected in commission-governed cities.

The substance of an article on Salt Lake City's experience under commission government, which I published in *Harper's Weekly* in October, 1913, is incorporated in Chapter II by the kind permission of Mr. Norman Hapgood, the editor.

OSWALD RYAN.

*Anderson, Indiana.*
*March 31, 1914.*

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# INTRODUCTION

Until the latter part of the nineteenth century the attention of public-spirited American citizens, as Mr. Ryan remarks in this book, was directed in small measure to the problem of municipal organization. He attributes the fact to the slight importance of cities in American political and economic life prior to 1850, and to the engrossing nature of the national problems, which caused political parties to be divided on national issues. It seems, indeed, a general principle that parties tend everywhere to be based upon the issues presented by the largest political area over which they can extend. Certainly the elections in our large cities were fought upon national party lines without a perception of the disastrous consequences to municipal government. During the last forty years the efforts at improvement have been aimed at divorcing city elections from national party politics, and at framing city charters better adapted to municipal needs.

Rural local government in the United States

has varied greatly in different parts of the country, according to the nature and traditions of the place. It has grown up almost insensibly, and has been fairly well fitted to the wants of the public, or at least it has been the subject of little criticism. But city governments have been artificial things, modeled on the pattern in vogue for the nation, although the functions they were to perform were of quite a different nature; and hence they have been found highly unsuited for their work.

Every one sees now that the problem of the city is essentially one of administration, and to that end the reforms of the last few decades have been directed; they have hitherto proved on the whole disappointing, because too much was expected from them, because the enthusiasm that brought them into being has usually subsided, leaving the management in less worthy hands, and because the fundamental principles of sound administration have been only partly grasped. Nevertheless, there has been improvement, not, indeed, steady, but in the aggregate notable and encouraging.

Of all the plans yet tried, the one advocated in this book, that of government by a commission conducting the city departments by means of

a corps of expert administrators, is the most promising. The dread of bureaucracy was a bugbear to our ancestors because it was associated in their minds with the old autocratic governments of continental Europe, because they had not learned to control permanent officials, and because they did not feel the need of efficiency required in the life of the present day. Prejudices are apt to persist after the reason for them has vanished, but the march of science has destroyed many more formidable than this. In the interest of public health we submit to medical regulations that would have annoyed and repelled our fathers. We adopt factory and commercial laws that would have violated their conceptions of liberty; and little by little we are adapting ourselves to the demands of a more dense and complex community. The use of professional experts has been the key to our material progress; it is the secret of success in municipal administration in Europe.

Nor, as experience has shown, is it difficult for a properly constituted elective body to keep the permanent official under control and in harmony with popular opinion. Within twenty years we have made great strides in this direction in our public schools, which respond more

nearly to the demands of the people than they did before. About some of the proposals made by Mr. Ryan in this book one may be more skeptical, but without expecting the millennium from the plan of a commission working through a professional city manager, one must admit that he shows its practicability and its value.

A. Lawrence Lowell.

# MUNICIPAL FREEDOM

# CHAPTER I

## THE NEW DEPARTURE IN MUNICIPAL DEMOCRACY

THAT no problem has laid a severer tax on the political genius of our people than the perplexing problem of city government every student of our political experience knows. Ever since James Bryce called attention to "the one conspicuous failure of the American people"—the failure of the city governments—our publicists and statesmen have searched restlessly for the model system of government which was to rescue the cities from inefficiency and misrule. Incidentally a certain class of politicians has exerted itself with equal vigor to render ineffectual the efforts of these workers for a new municipal era.

To say that the new forms of government which constitute the fruits of this reform quest have been complete successes in practical operation would be as far from the truth as to say that they have been complete failures. Practically all of the new forms of city government

launched during the past thirty years wrought some sort of improvement in municipal conditions; but, with one exception, it cannot be said that any one of them proved so efficient as to give promise of becoming the prevailing municipal system in the United States. Each new plan was set in motion amid brilliant prophecies for the future city government; but in due time the charm which had brought the initial success wore off, and the prophecies went unfulfilled. In a large measure, the tale was "full of sound and fury, signifying nothing."

A striking exception to the usual reform tradition is apparently revealed in the story of the commission plan of city government. About fourteen years ago a great tidal wave swept a substantial part of the city of Galveston, Texas, into the Gulf of Mexico, and the necessity arose for supplanting the notoriously inefficient aldermanic government of that city with a government which should be equal to the task of restoration. A plan was devised by which all municipal powers were intrusted to a single body of five men, each one of whom was given supervision of one of the city's departments, for the proper management of which he was held responsible. The new system, which came to

be called the "commission plan," proved unusually efficient and was adopted by several other Texas cities. To-day some three hundred and fifty cities, containing one fifth of the entire urban population of the country, are being admirably governed under this system, which is in a fair way to become the prevailing form of municipal government in the United States.

The commission government, since its introduction fourteen years ago, has had a larger share of consideration at the hands of charter reformers and students of government than any other single measure of municipal reform. It was even made the subject of an address in the United States Senate by a member who was convinced that the new system was so important a discovery in popular government as to warrant calling the attention of the nation to it. Well may it be said of this, as of the other new municipal systems, that its early story has been "full of sound and fury."

Is it also to be a tale "signifying nothing?" Is the dream of a new municipal era, aroused by the striking success of this new instrument of municipal democracy, destined to vanish as the former dreams have vanished? To throw a possible light on this question, rather than to

relate the well-known story of the commission governments, is the purpose of this little volume.

To appreciate the real significance in municipal affairs of the movement toward city government by commission, some knowledge of the general trend of American municipal development is necessary; for it is as a phase of a general tendency, and not as an isolated experiment, that the movement is to be properly regarded. Like most of our institutions, our city government, both in form and substance, was transplanted from England to the colonies, where it underwent the usual differentiation under the influence of changed conditions. This differentiation, however, did not proceed to any marked degree during the colonial period, and at the beginning of the national era the general form of municipal government, with the exception of the New England town-meeting system, was that of the English borough or council system. Then began a new period, during which the influence of the Federal and state governments dominated the organic development of the municipalities.

That the "federal analogy" should have thus become the controlling factor in this develop-

ment was due partly to a widespread belief in the efficacy of the governmental principles which it involved, and partly to a misconception of the functions of the municipality. A cardinal feature of the federal plan was Montesquieu's principle of the separation of powers, having for its object to safeguard the interests of the people against the arbitrary and ill-advised acts of public officers. Another characteristic was the bicameral legislature, composed of members representing geographical districts. By incorporating these principles in the municipal charters which the rapidly growing needs of the urban population brought into existence during the nineteenth century, the state legislatures sowed the seed of municipal inefficiency, which was destined to bear fruit in "the one conspicuous failure of the American people."

The consequence of this senseless diffusion of powers among various boards and officials, which received its widest application during the last half of the nineteenth century, was to render almost impossible the prompt and efficient performance of municipal functions. The principle of "checks and balances," intended as a curb on the arbitrary and ill-advised acts of public officials, became instead an obstacle to the wise

and salutary measures of men who had at heart the best interests of the people. Moreover, since the concomitant of the division of power is division of responsibility, it became impossible to fix the blame for inefficiency and corruption, which became ever-present factors in city administration.

Scarcely less sinister in its result was the principle of the representative legislature. The belief in sectional representation was doubtless based upon the assumption that the different states sometimes possess diverse interests. Experience proved, however, that in the city there was no such division of interests as was supposed, and the municipal council, instead of regarding the general interests of the city, came to represent the special interests of particular wards. A blind adherence to principles which had contributed to the success of a national government, besides opening the way to extravagance, wastefulness, and inefficiency, gave demagogic politicians an opportunity to exploit the public interests, and thus prepared the way for the spoils system in local government.

The logical result of this growth toward a cumbersome and complex system was the birth, in the closing decades of the last century, of a

counter movement toward the centralization of administrative power and responsibility. The important powers which had been gradually taken from the municipal council and distributed among numerous boards and officials were now centred in the mayor, who became the most powerful member of the government. It is as a climax of this well-defined tendency toward administrative centralization that the present movement for city government by commission finds its proper place in our general municipal development.

The principle of the commission government was not without precedent in the United States. A charter granted by the California legislature to the city of Sacramento, in 1863, vested all municipal powers in a "Board of Trustees" composed of three members elected at large, each of whom was placed in charge of a municipal department. The Sacramento government is said to have given excellent service, but in time other officers and boards were created for the exercise of administrative powers, and the original board developed into a purely legislative body.

A more striking precedent to the present-day commission government was embodied in a charter which the Louisiana legislature granted

to New Orleans in 1870, as a result of the bankrupt condition of that city. This government consisted of a board of seven administrators who collectedly acted as a legislative body and individually served as department heads. The members of the board, though at first appointed by the Governor, were to be elected by the voters at large and were to receive an annual salary of $6,000. In 1882 the old form of government was restored in New Orleans.

Although there is some conflict of testimony as to the efficiency of these former commission governments, the weight of the evidence is in their favor. It is clear, however, that they never quite squared with the political ideals of their time, and that they had no noticeable effect on the general trend of municipal development. Like the appointive commission which has managed the affairs of the national capital since 1878, and the Memphis commission appointed after the yellow-fever epidemic of 1874, they have been precedents without influence.

The first city to abandon the old form of government for the commission plan, as it is understood to-day, was Galveston, and, as in the case of New Orleans and Memphis, the impelling cause was an emergency. On September

8, 1900, a terrific West Indian hurricane sent high waves over the low islands on which the city of Galveston was located, destroying six thousand lives and $17,000,000 worth of property. The great calamity came as a kind of climax to a long period of wretched experience during which the city government had become so clogged with inefficiency and corruption as to reduce the administration to a deplorable state. At this juncture, when the city was facing bankruptcy, the Deepwater Committee, an organization of business men who represented large property interests in the city, undertook to improve conditions through an attempt to secure a new government. The idea of government by commission was suggested and embodied in a new charter, though it does not appear that those who drafted the new instrument were familiar with the former commission governments. As a result of a vigorous campaign in which many prominent citizens joined, the Texas legislature passed the necessary act, and twelve months after the flood the old government of Galveston was replaced by the commission.

The basic idea of the new government was the centralization of all municipal powers, legislative and administrative, in a single board of five mem-

bers, one of whom was given the title of "mayor-president." The original act provided for the appointment of three of the commissioners by the Governor, and for the election of the remaining two by the voters at large. The Supreme Court of Texas later sustained a constitutional objection to the appointive feature and the charter was amended by providing for the election at large of all five members of the commission. The government, under the amended charter, is divided into four departments, each of which is in charge of a commissioner for the management of the department intrusted to him. The general supervision of the affairs of the municipality is vested in the mayor-president, who is the executive head of the city, but exercises no veto power or power to interfere in the affairs of any of the departments; he is *primus inter pares*, possessing no more power than any other member of the governing commission.

The very striking improvement which followed the installation of this simple and efficient system attracted the attention of other cities which were suffering from the common municipal ills, and within a few years other Texas cities, notably Houston, Fort Worth, and Dallas, received similar charters from the legis-

lature. Interest now spread to the north, where the legislatures of Iowa and other states passed acts permitting cities, by a referendum vote, to adopt the new form of government. The growth of the movement now became rapid. By the end of the year 1907 nine cities were operating under commission government, seven of which were in the south and two in Iowa. Three and a half years later the number of cities and towns in which the new form was either in operation or had been provided for either by special charter or by an election under general law was one hundred and forty-four. In January, 1914, over three hundred and fifty cities and towns containing an aggregate of over seven million people were being governed under the commission form.

It must not be thought that the Galveston plan was adopted in its entirety by the cities which later adopted the commission idea. Indeed, the opinion generally prevailed that the Galveston charter was seriously defective in not providing sufficient safeguards against the misuse of power by members of the governing body, and the Galveston plan soon underwent a modification out of which evolved the typical commission government of the present time. Thus the initiative, referendum, and recall, the non-

partisan nomination and election of members of the commission, and the civil-service commission were added for the purpose of giving to the people a more complete control over the commission and of checking the ever-present influence of partisan politics in municipal affairs. The Iowa commission government law was the first to embody all of these new features, although some of them were being worked out by Texas cities simultaneously with their consideration by the Iowa legislature.

The Iowa law, which has been commonly called the "Des Moines Plan," at once became the model after which later commission charters were patterned, and it continues to furnish the prevailing form. The division of administrative functions varies with the different charters. As in the Galveston plan, the mayor is always the titular head of the administration, and, except in a very few instances, has no more power than the other members of the board. Sometimes he is in charge of a department, and sometimes he exercises a general coördinating or supervisory power over the administration as a whole. The departments of "finance and revenue" and "police and fire" are almost uniformly provided, while the remaining functions

vary in their nature and distribution in the different charters. The general legislative powers and the powers of appointment and removal are vested in the commission, which is commonly called the "council."

The members of the commission, or council, are regularly elected at large for a term varying in most cases from two to four years. In some instances they are elected to serve as head of a specific department, but the more common practice is for the commission as a whole to assign its members to the several departments. Which plan is more efficacious has been a subject of much discussion among commission charter reformers, and it is still an unsettled question. Election to specific office, some say, is essential for consistency with the fundamental principle of commission government that responsibility should be clear and sharp. Thus, according to advocates of this method, the member of the council is in a position which he has agreed with the voters to take, and he can therefore be held much more effectively responsible than if in a position, perhaps unwelcome to him, to which he has been assigned by his colleagues. It is further claimed that the plan of election to a specific office will secure a higher grade of men,

and instances are often cited where commission governments have lost a highly competent official because of his defeat by a less competent, but a more popular, man, due to the fact that the voters did not realize what place in the council was at stake. On the other hand, it is argued that election to specific office invests the individual commissioner with a certain independence which militates against harmonious action on the council.

The present trend seems to favor the plan of election to specific office, and, not only have the latest commission charters embodied this plan, but one city, Colorado Springs, has lately registered its dissatisfaction with the plan of election at random by adopting an amendment providing for election to specific office. It should be considered, however, whether election to specific office may not encourage the false idea that experts may be secured by popular election.

A similar question has been raised with regard to the length of time which the members of the commission should be required to devote to the work of their office. It has been held by some that a liberal compensation should be provided. and the commissioner required to devote all his time. Others have insisted that such a

provision discourages from entering the public service men who would be unwilling to give up their private business, thus depriving the city of the services of the most competent of its citizens. This controversy is significant of the difference in view which has prevailed with regard to the nature of the commissioner's function; to say that he should devote all of his time to the office is to assume that he is an active manager of his department; to say that he should give only part of his time is to assume that he is merely a supervisor, leaving to his subordinate the actual work of management. Which assumption is the more consistent with principles of administrative efficiency will be discussed later.* The present trend of opinion favors the plan of requiring the commissioner to devote his entire time to the city's work.

The presence of the initiative, referendum, and recall in the commission plan as outlined in the Des Moines charter has had much to do with overcoming the objection that the new system is undemocratic; indeed, it is probable that it would never have received such wide adoption had not these devices been added to insure its responsiveness to the popular will. The Iowa

* See Chapter III.

law, which may be regarded as typical in this respect, provides that if any proposed ordinance is submitted to the council by petition signed by not less than 25 percentum of the voters, and containing a request for a referendum in case the council does not pass it, the council must either pass the ordinance without alteration within twenty days or submit it to a referendum vote. The voters thus have the privilege of enacting the ordinance into law, which may not be repealed or amended except by vote of the people. If the petition is signed by not less than 10 or not more than 25 percentum of the voters, then the council "must pass said ordinance without change, or submit the same at the next general city election occurring not more than thirty days after the clerk's certificate of sufficiency is attached to the petition." The charter further provides that any ordinance which has been passed by the council may be suspended on petition of 25 percentum of the voters and presented within ten days after the passage of the ordinance, and makes it obligatory on the council either to repeal the ordinance or submit it to a referendum vote. A referendum is required on all franchises.

The recall may be brought into operation by

a petition signed by not less than 25 percentum of the voters; if the petition is found to be sufficient the council is required to call an election not less than thirty nor more than forty days from the day the petition is declared sufficient. In this election the name of the offending official is placed on the ballot as a candidate (unless he requests otherwise); other candidates may secure a place on the recall ballot by a petition signed by not less than 10 percentum of the voters. The percentum of votes required for the recall petition varies in the different cities from 15 to 55. The general opinion seems to be that the required percentum should be less in the large than in the small city.

It has been said that a final verdict on the efficacy of the initiative, referendum, and recall is premature at this time, as these instruments have not yet been subjected to wide use in cities. Nevertheless, it is significant that the lamentations of those who opposed their introduction have not been justified. It was prophesied that these instruments would become weapons in the hands of corporations seeking public favors, and that the members of the council would be shorn of their independence of action and made subservient to the popular clamor.

Far from these predictions being fulfilled, it may be said that the potentiality of the initiative, referendum, and recall as means of effective popular control has made the commission governments strikingly responsive to public opinion, enhancing and not diminishing their efficiency.

A no less important element in the success of the commission governments is embodied in the provisions for the non-partisan choice of public officials and employees. The methods which have been almost uniformly adopted to accomplish this object are the non-partisan primary and election and the civil-service board. The non-partisan primary, or preliminary election, as it is commonly called, is used as a means of selecting two candidates for each office to be voted on in the second election. The candidates secure a place on the primary ballot, which like the second ballot is free of any party designation, by petition of a certain percentum of qualified voters. A modification of this system is found in the Berkeley (Cal.) charter, which provides that if any candidate in the preliminary election receives a majority of the votes cast he is thereby elected. Some charters have provided for the preferential plan of choosing

the members of the commission, an innovation which will be discussed in a later chapter. At the present time the Des Moines plan of non-partisan preliminary and second elections is the prevailing method of choosing the members of the council in the commission-governed cities.

The merit system of appointment is generally provided for in the commission charter, though sometimes, as in New York and Massachusetts, it is imposed by the general law of the state. The Iowa commission government act provides for a civil-service board of three members, to be appointed by the council for six years, the term of one member expiring every two years. Twice a year the civil-service board holds examinations to select persons qualified to fill positions under the city government, and from the list secured, all appointments to places under the civil service must be made. All appointive officers and employees, except the city clerk, fire chief, assessor, street commissioner, and chiefs of sub-departments, commissioners of any kind, unskilled laborers, mayor's secretary, and assistant solicitor, have been brought under the provisions of the civil service. The Iowa law further gives the council the power to remove members of the civil service board by a four fifths vote.

The principle of the merit system, thus embodied in a typical charter, is doubtless essential to the well-being of the administrative service; the provisions prescribing the manner in which this principle shall be applied, however, are open to serious criticism and constitute an important defect in the commission charters. The ordinary charter, like that of Des Moines, contains a brief statement of the merit principle and leaves it to the commission to supplement this principle by establishing the scope and duties of the civil-service board. But this scheme is inconsistent with the fundamental principle of the commission plan: the centralization of official responsibility; for if the civil-service board failed to carry out the principle laid down in the charter, the responsibility for this failure would be divided between it and the commission.

Moreover, this arrangement places the civil-service board too much in the power of the council. From one point of view, the civil-service board is an employment agency to aid the governing council; from another point of view, it is an independent authority to restrain the possible political tendencies of the council to use appointments for political purposes. If the

tenure of the civil-service commissioners is dependent upon the council itself, then the council is possessed of a club by which it can compel the civil-service commission to act in accordance with its desires. Again, the extension of the merit system by the commission charters is generally given to the council itself, and, in most cases, the council itself is given the power to frame the rules. Thus we find the charter creating a restraining body, but making that body dependent, in the exercise of its powers, upon the very council which it is created to restrain.

Already the inadequacy of these civil-service provisions has been revealed in their practical operation. Thus in Des Moines, it is the consensus of opinion that these provisions of the law have not been thoroughly enforced and that members of the council in several instances have overridden the civil-service board in the matter of appointments. Both in Des Moines and Cedar Rapids the rules adopted by the civil-service board have not conformed to the provisions of the charter, and have been much less stringent than the latter. It is clear, in view of the experience of commission cities, that the effective application of the merit principle re-

quires a more complete definition of the powers of the civil-service board than the commission charters at present contain.

From the foregoing brief review of the commission charters the following may be regarded as the essential characteristics of the straight commission plan as it is in effect to-day in American cities: (1) a small governing council, consisting generally, but not necessarily, of five members, exercising administrative, executive, and legislative powers; (2) the election of the members of this council by the people at large, instead of by wards; (3) the placing of a council member in charge of each department, for the efficient administration of which he is responsible to the council; (4) the non-partisan selection of both elective and appointive officials through the non-partisan election and merit systems, respectively, and (5) the placing of the council under direct popular control through the initiative, referendum, and recall.

# CHAPTER II

## A TALE OF TWO CITIES

THE marked improvement in civic conditions which has been accomplished in commission-governed cities cannot but impress the impartial investigator, no matter what his opinion may be of the cause of the improvement. In a few commission cities he finds conditions only moderately improved; in the great mass of the cities which adopted the new system, however, he encounters results that are striking when set up against the background of American municipal experience.

Looking into the department of municipal finance, he finds this branch of the administration responding, almost without exception, to the enlightened efforts of the new governments. He observes that large floating debts have been wiped out, sinking funds created, and the public credit restored; that the improvident policy of resorting to bond issues to meet current expenses has been abandoned; that the people's funds

have been let out to financial institutions to afford an additional income to the public treasury; that current expenses have been curtailed, and the tax burden, in many instances, lightened. He detects, too, an unmistakable improvement in the various public services, which is revealed in purer water, better streets, and a more efficient fire and police service. And, finally, the investigator notes a distinct elevation in the moral tone of the cities which have adopted the commission plan; in the elimination of the gambling den, the policy shop, and the disreputable resort, he sees an effective tribute to the simple program of strict and impartial law enforcement which generally has characterized commission rule.

To relate the individual achievements of the commission-governed cities does not fall within the scope of the present volume; a brief description, however, of the experience of two of these cities—Haverhill, Massachusetts, and Salt Lake City, Utah—should be serviceable as indicating to the reader the spirit and method characteristic of commission-government reform. Neither of the cities mentioned adopted commission government as an emergency measure; neither made the change while in the grip of

a civic upheaval shaking the depths of her citizenship. Moreover, neither of the two cities can be properly credited with the maximum or with the minimum of commission-government achievement. The examples of Haverhill and Salt Lake City, therefore, being typical, should be useful both to the general reader and to the student.

## AN EASTERN EXAMPLE

Thomas Jefferson once wrote that the final test of democracy in America would take place in the cities. It was a sudden realization of her urban responsibility, in the light of the great Virginian's words, together with a conviction that democracy was not really embodied in the municipal system which the Massachusetts legislature had imposed upon her, that impelled the city of Haverhill to a new civic life. Accordingly the old government, with its partisan mayor, board of aldermen, and common council, was swept away, root and branch, by act of the Massachusetts legislature, and, in January, 1909, the commission system was installed in its place. Apparently the citizens of Haverhill, who had been responsible for the change, were determined that if the test of democracy was to come in the city,

it should be a fairer test than had been possible under an antiquated scheme of municipal organization.

The old government of Haverhill was typically American, which is to say that its machinery consisted of a mayor, aldermen, councilmen, and numerous boards, all sharing power with each other, and that the only organizing idea apparent in this machinery was a studied lack of organization. A victim of Montesquieu's doctrine of divided powers, the system, to use the words of a municipal expert, was "cursed with the curse of divided responsibility." This multiplicity of authorities was meant to secure democracy and efficiency; but the government of Haverhill embodied neither.

The cardinal defect of the system may be verified from the concrete experience of the city prior to the installation of the present government. The ward plan of representation made the city legislature a contending chamber for the selfish and conflicting interests of particular wards. "It was a case of swap a lamp-post in Ward 3 for a special policeman in Ward 5," declared a man in the street. No wonder a constructive plan of street building, much needed by the city, was impossible. Of course the

finances of the city suffered from the system, and in January, 1909, a floating debt of $160,000 had accumulated—the fruits of a policy of making up annual deficits through a resort to bond issues. It is significant of the inefficiency of the old government that one of its last acts was to issue $39,000 worth of bonds with which to pay current expenses.

The city's deplorable financial condition, more than any other thing, pointed out the urgent need of a change, and a number of public-spirited citizens, convinced that any improvement in the government of the city must be preceded by a change in the machinery of government, invited President Eliot, of Harvard, to lecture in the city on the subject of charter improvement. Dr. Eliot so impressed his hearers with the merits of the commission plan that a civic association was formed for the express purpose of securing a commission charter for the city. It was largely due to the tireless efforts of the leaders of this organization that the Massachusetts General Court of 1908 granted the present charter, which went into effect in January, 1909.

The new government thus established may be said to rest upon a theory of municipal gov-

ernment entirely different from that embodied in the old system; its structure recognizes city government as largely a question of business management, rather than of legislation. "Ours is not to legislate on the tariff, the currency, or the trusts," declared a Haverhill reformer, "but to build and maintain streets, provide pure water, fire protection, and the like, and these are purely matters of business. We, therefore, want a government organized with a view to administrative efficiency." One may be inclined to take issue with Haverhill's citizens upon this view of the nature of municipal government on the ground that, while the municipality is not concerned with legislating on subjects of national politics, it nevertheless finds a legitimate function in legislating on questions of local policy, and therefore should be organized with a view to legislative as well as administrative efficiency. But when one considers that a so-called system of state regulation has reduced Massachusetts cities to a subject state where they are scarcely more than administrative agents, he will be apt to revise his judgment, and conclude that, after all, the Haverhill view is correct in so far as it applies to Massachusetts cities. Once the colonial champion of the right of self-

government, Massachusetts now denies that right to her own cities!

The new government is admirably constructed from an administrative standpoint. The concentration of all powers (except those connected with school administration) in a small elective board of five men—a mayor and four aldermen—the division of the city's business into four departments, each of which is under the superintendence of an alderman who is personally responsible to the board, or council, for the administration of his department; the appointment of all officials by the council, on a merit basis; the election of members of the council by the people at large on a non-partisan ballot, and provisions for direct legislation and the recall of elective officers are the leading features of the new system.

And the practical working of the new government conforms to the theory on which it is built. Out of the sixty or more candidates who presented themselves for the council in the first election, the people chose five men who came nearer to being a board of competent municipal directors than any body of men elected in the history of the city. For mayor they chose a business man of distinguished ability, who had

given a great deal of study to the municipal problem; for aldermen a retired bank cashier highly versed in technical financial matters, an expert civil engineer of long experience, a prominent contractor and bank president, and a shoemaker of more than ordinary ability. The retired bank man was placed in charge of the city's finances, the engineer in charge of the street department, the contractor in charge of public property, and the shoemaker in charge of the police and fire departments. The mayor first elected under the new charter and one alderman are still in office. How completely partisanship, in the sense of adherence to national party lines, has been eliminated is seen from the fact that the council has generally been composed of Democrats, Republicans, and Socialists.

To the practical efficiency of the new government the striking improvement in the city's finances further attests. As a result of the application of improved business methods, $15,000 was saved in current expenses during the first year of the new régime; $61,000 worth of bills, received as a legacy from the old government, was paid off; $133,000 of bonded indebtedness was swept away, and a cash surplus depos-

ited to the credit of the people. The popular confidence which the new government inspired resulted in an increase of over $17,000 in the tax collections over previous years. The high standard of municipal economy thus established during the first year of the present government has been consistently maintained, and each year has ended with a surplus in the treasury—a condition almost unknown prior to 1909.

The old government kept no systematic oversight over expenditures, bought supplies at rates dictated by the dealers, and permitted gross extravagance and waste in the administration of the departments. The new government, through the aldermen department heads, keeps a rigid supervision over expenditures, requires a cash discount on the prepayment of bills, lets municipal work on a system of competitive bids, and buys municipal supplies in large quantities, effecting thereby a substantial saving. Clearly the application of economy and promptness to the city's affairs would not have been possible under the old government of divided power and responsibility.

Many examples might be cited to show the superiority of the present government over the old form, but perhaps the most striking contrast between the two governments is revealed in the

story of the city's difficulty with a public-service corporation. The case is interesting because it suggests the potentiality for good that lies in a simple system of the people's choice, which is sensitive to the popular needs.

In 1900 the Socialist mayor of Haverhill, under a Massachusetts statute, appealed to the State Gas and Electric Light Commission for protection against an exorbitant gas rate. The commission, acknowledging the justice of the city's cause, fixed a maximum gas rate of 80 cents per thousand. The Haverhill Gas Company, contending that the commission's act was confiscatory under the Fourteenth Amendment of the United States Constitution, secured an injunction from the United States District Court against the enforcement of the commission's order. A master was appointed to investigate the case, but the investigation never took place, and the case slumbered. Neither the commission, the court, nor the city government made any serious effort to reopen it. Meanwhile, both the city government and the people of Haverhill continued to pay the old gas rate of $1.

Immediately after the inauguration of the present government, the City Council, on the advice of the City Solicitor, served notice on the gas

company that it would discontinue paying the one-dollar rate. The solicitor took the case to the Massachusetts Supreme Court and obtained an order assuring the city, as a municipality, the 80-cent rate.

The city government had now obtained the desired gas rate, but, because of the subject relation in which it stood to the state, it was helpless as to the main question of the price of gas to the people of Haverhill. The city was really not a party to the case, its rightful privileges having been consigned by law to authorities over which it had no control. The only possible escape from the situation seemed to lie in municipal ownership, and the council at once went to work to study the question.

After a preliminary announcement of its determination to construct a gas plant, the gas company opened negotiations with the council with the result that a new franchise, looking to a gradual reduction of the price of gas to 80 cents, was granted to the company, which had been reorganized. The city government now abandoned its public-ownership plan in consequence of this satisfactory adjustment of its differences with the gas company.

It must not be inferred from the determined

attitude of the Haverhill government in its controversy with the gas monopoly that absolute harmony has always existed among the five members of the governing council. Indeed, in the very controversy described, one alderman fought bitterly the agreement with the gas company, advocating public ownership. The same alderman later opposed unsuccessfully the reelection of the mayor who had preferred a satisfactory franchise to what he considered the uncertain venture of municipal ownership. The significant fact is that despite this and similar disagreements between the members on questions of policy, the new government has been able to achieve marked and permanent improvements in the affairs of the city, bringing economy and efficiency out of waste, and curbing corporate extortion; while the old government had stood helplessly inefficient in the bitterness of partisan strife. Such a result pleads eloquently against an antiquated system of checks and balances which has conclusively proved its own worthlessness.

### A WESTERN EXAMPLE

Most American cities, suffering from misgovernment, have cried out in their distress that

the influence of the great national parties in their local affairs was responsible for their ills; national parties and national issues dominated the city, which was mercilessly sacrificed on the altar of national and state politics. But Salt Lake City, for several years preceding 1912, was not dominated by national parties or national issues; yet the issue in the local elections was as foreign to city government as the questions of the tariff, the currency, or trust regulation. That issue grew out of religious prejudice: Should the members of the Mormon Church be permitted to hold any city office or exercise any political influence in municipal affairs?

Here was the element which was to make the Utah capital unique among the politics-ridden cities of America. Its appearance resulted several years ago in the formation of a political party—"The American Party"—which was dedicated to the task of excluding Mormons and Mormon influence from the city administration. That party, based on no principle either of municipal, state, or national administration, governed Salt Lake City almost without interruption for several years, until a non-partisan commission government dislodged it from power in 1912. There had been the usual Democratic

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and Republican parties in Salt Lake City, but these did not count; the American Party ruled the city.

The origin of this anti-church party dates back to an interesting combination of circumstances: Several years ago, Reed Smoot, high official of the Mormon Church, was a candidate for the office of United States Senator from Utah, and his opponent, a citizen of Salt Lake City and a Gentile, as the non-Mormons are called, conceived the plan of drawing to his support all elements of opposition to the church. For a time it appeared that the Gentile candidate would be sent to Washington. Smoot was elected, however, and practically all clear-thinking citizens of Salt Lake City agree that the defeated candidate's desire for revenge achieved the formation of the American Party, first called the Liberty Party, which immediately followed Smoot's election.

But the spirit of revenge, which moved the managers of the new movement, by no means moved the great mass of its supporters in the years that followed. Hundreds of people believed that the powerful church on the hill was a dangerous political influence and should be curbed, and they were the bulwark of the new

party. "In what way did the church interest itself?" the writer asked a score of citizens. "Well," came the invariable answer, "just about election time a whisper would come forth from a high official of the Mormon Church, and the Mormons would all vote one way."

The members of the church stoutly denied the charge of church influence, but the magnificent temple on Temple Square, shrouded in eternal secrecy, represented an ominous influence in the minds of many citizens, who continued to register their votes for the American Party. Then the aggressive business influence of the church added weight to the popular charge. "The church, in the person of its rulers, owns a hotel, a bank, a great department store, a powerful sugar concern; such an organization cannot possibly keep out of politics." So reasoned the majority of Salt Lake voters, and the majority were Gentiles. Whether the church of Jesus Christ of Latter Day Saints was guilty of the charge is unimportant so far as this story is concerned; the vital fact is that a ruling majority *thought* the church guilty, and feared to vote for any other than the American Party candidates.

The result of municipal government by a party which was the instrument of an anti-church cru-

sade was what might be expected. People voted according to their religious sentiments, not according to their municipal convictions; questions of municipal policy and of good city government had no place in the civic consciousness of Salt Lake's citizenship. As the issue of monarchism for years cut across the natural party divisions of France, frightening great masses of voters into the anti-monarchist ranks; or as the race issue for half a century has demoralized the natural party divisions of our own Southern States, forcing voters into the white man's party; so the question of whether the members of the Mormon Church should be permitted to exercise their right to hold office or to be politically influential stifled the political voice of Salt Lake City by driving hundreds of her voters into the ranks of the only municipal anti-church party that has ever appeared in this country.

Secure in the thought that the Gentiles would not dare desert the anti-Mormon standard, the managers of the American Party did not trouble themselves to give the people a high quality of government. Contracts were awarded to political favorites, regardless of cost to the city treasury, and one of these favorites received so many municipal jobs that people ironically referred to

him as the "official contractor." The police department was so successfully dominated by petty politics that all forms of vice flourished without interference. The fire department, a crib for the faithful, became so inefficient that, according to reports of leading citizens, valuable properties were allowed to burn to the ground a few years ago because the firemen were too intoxicated or too inefficient to fight the fire effectively. There were no startling cases of official corruption, but there was abundant evidence of official inefficiency. While good citizens of Salt Lake City rested in the peaceful thought that the government was secure from the influence of the Mormon Church, the petty politicians ruled with free hand. Then, suddenly, the idea dawned upon several leading spirits that their city was the victim of a false idea and a groundless fear, and that if Salt Lake City were to hold her place in the march of the cities she must revise her municipal point of view. From the moment the new idea got abroad dates the new era for the Utah capital.

A just regard for political science demands the admission that the idealism of her citizens was not the sole motive which moved Salt Lake City to reform herself. Here, as in all previous history, we can find traces of the economic

motive which Karl Marx made the foundation of his case for modern Socialism, and we must admit that, to many citizens, the new movement represented primarily a gain in business prosperity. "This church issue is hurting business," wailed some. "I can't afford to antagonize my Mormon customers," declared others in their despair. How the followers of Marx and the materialistic interpretation of history would have chuckled at these evidences of the truth of their creed!

But there were idealists in Salt Lake City, too—people who dreamed dreams and saw visions, people who saw the moral and civic needs of their city—and, be it said to the credit of Salt Lake City, these people took the lead in the battle for good government. It was they who undertook the task of getting a new commission charter drawn up by a self-appointed committee of citizens, and who, when the committee had drawn up a new charter embodying most of the ideas of the commission government, took the responsibility of putting the new charter through the state legislature.

It was when the proposed charter was projected into the Utah legislature that an event occurred which made certain that Salt Lake City would

get her commission government, and that was the alliance of the Mormon leaders in the legislature with the proponents of the new charter. The Mormon political leaders in control of the legislature were willing to give Salt Lake City a commission government if by so doing they could break the power of the anti-Mormon party in the capital, and the non-partisan primary and election provisions, which appeared conspicuously in the proposed charter, offered an apparently effective means to this end. The result was that an act was passed in March, 1911, placing the cities of first and second classes, which included Salt Lake City, under commission government.

To Mormon leaders the measure meant an opportunity for putting an end to the "Babylonian captivity" of the church; to the good-government people it meant an opportunity for civic betterment and expansion. The anti-American feeling had played into the hands of the reformers.

After an exciting municipal campaign in which all of the old political elements combined to elect candidates who would carry on the old anti-Mormon tradition of misrule, the good-government element elected their candidates and the new government was installed in January, 1912.

The new commissioners were not politicians. The head of the government, Mayor Parke, a young university man, was the leading member of a jewelry firm, and had been state senator and brigadier-general of the State Guard. The other commissioners included a former mayor, a young Harvard man of wealth, who had entered the lists for good government from a sense of public duty; a Socialist of advanced political and economic ideas, and a warehouseman. They were not men of brilliant administrative ability, but they were efficient and earnest men, and were sincerely bent on instituting an administration that would measure up to its highest public obligations.

The new government began its work by overhauling the police department, placing in charge as chief of police, one who, as special officer, had for many years been regarded as an expert in the detection of crime. The new chief lost no time in notifying law-breaking saloonkeepers, gambling and "dope" house operators, and the proprietors of the "red light" district that there was to be a change of policy, and that they would be expected to abandon their unlawful activities without delay. The prostitute was ordered to leave the city, and the gambler in-

vited to do the same or secure an honest job. It was made clear to these people that the alternative was the jail, and the whole troop took Hobson's choice and either changed their residence or their occupation.

It must not be thought that the captains of the underworld calmly accepted the new régime without making any effort to understand it. "Surely," exclaimed one of these to the chief of police, "surely, this is but another of the old-time political spasms, and surely," he added with a knowing wink, "an envelope, properly filled, and dropped in the chief's desk at the beginning of each month, would make things all right again." The chief always endeavored patiently to explain to these callers that something had happened to Salt Lake City which was different from the things that had happened before, and that it would be useless extravagance to leave envelopes in the chief's desk. Needless to say, the would-be benefactor of the department always departed with no uncertain idea of the new policy of law enforcement which was to be imposed on the city. One of these, a Chinese manager of an opium den, went so far as to solicit the aid of members of the chief's family in trying to persuade him against "fanati-

cal ideas of law enforcement!" "Mr. Chief, he velly nice man," asserted another Mongolian, "but he no savvy."

The fire department underwent a similar reorganization. For many years firemen had been appointed and discharged on a basis of political expediency and, naturally, the efficiency of the department had gone steadily down, while the fire insurance rate in the city had gone steadily up. The commission now added new equipment and new men to the service and placed at its head an expert who spends part of his time in a comparative study of the best methods of fire-fighting which have been worked out in other cities. People now inform you in Salt Lake City that Chief Bywater, and not the chairman of the fire committee of the council, is in control of the fire department, and that it is a more efficient department. Moreover, $9,175 less than the budget estimate was spent in this department during the year 1913.

As a business investment, the new Salt Lake City government has measured up to the commission-government tradition of achievement. For example, the first semi-annual report of the new government showed a saving of over 60 per cent. in the legal advertising of the city, and

$18,000 in the purchase of supplies. The first annual report disclosed a saving of $33,750 in the purchase of supplies; the second annual report issued in January, 1914, reveals a net saving of $33,185 over the preceding year in the engineering department alone. Other savings may be noted in the various departments. Contracts are now awarded to the lowest bidder, and the good old days when there was an "official contractor," who was patriotically chosen over outsiders who had offered to do better work for one third less money, have passed away with the old council government. Another significant feature of the new business policy is the collection of interest on the city funds deposited in banks. In the old days, the banks paid interest but the city never received it. Now it goes into the treasury.

But after all, the success of the new Salt Lake City government, after three years of experience, cannot be measured by its administrative economies. It is in a new civic consciousness that one sees the change. The old order of boss-ridden administration, of unrestrained license for the lawless elements, of ceaseless religious strife, has given away to the new, and somehow the people as a whole seem to be thoroughly satisfied.

The visitor will now see in the heart of the city a large "stockade," enclosing long rows of uniformly built houses—a notorious pen in which were accustomed to gather the most vicious elements of the Utah mountains; silent and deserted, to-day it stands an eloquent monument to the new order of things in Salt Lake City.

# CHAPTER III

## DEMOCRACY AND EFFICIENCY

To FRAME a government that will be democratic but not efficient, or a government that will be efficient but not democratic,has been regarded as a comparatively simple task; but to construct a municipal organization that will be both democratic and efficient has been the perplexing problem of the municipal builder. Does the commission plan offer a solution to this problem? Assuming that the new system is democratic—a question which is discussed in a later chapter—is it also efficient?

Any significant answer must come from a scrutiny, in the light of our municipal experience, of the principles underlying the framework of the commission government. Of course many people believe that municipal efficiency is not to be found in any *form* of government, that it is the type of men in charge of the government and not the form of government that determines the character of the administration. Excellent ad-

ministration, these people say, has been obtained under a poor system, and poor administration under an excellent system; therefore

> For forms of government let fools contest,
> What's best administered is best.

The protest is itself an admission. If the form is unimportant, why such violent opposition to a change in the form? As a matter of fact, although the character of the public officials is an essential factor in the success or failure of a municipal administration, the type of political organization under which the officials work is also important. That inefficient officials will fail to give good government, no matter how excellent the system under which they work, is plainly borne out by American experience; and it is equally apparent that efficient public servants will not be able to secure the maximum of efficiency, and, indeed, will be very apt to obtain a minimum of efficiency, if handicapped by a system of government which is ill-adapted to the work to be performed.

Moreover, the system exerts an important influence in determining the character of the men who are attracted to the public service. If it

is so organized as to discourage the candidature of able men, an inferior type of elective official will result, and the subordinate administrative service will suffer accordingly. The inquiry into the efficiency of the commission plan, then, may be resolved into two questions: (1) Will the new system serve to attract competent men into the elective offices? (2) Is the new system conducive to the application of approved methods to the public administration? In other words, is it so constructed as to provide for the performance of the actual administrative work by men of technical training and experience?

That a higher grade of municipal official has been secured under commission government is obvious from the higher standard of public service, which even opponents of the new government concede has obtained under the new plan. It would be difficult to assign any one cause for this. No doubt the method of electing the commissioners at large, instead of by wards, has been largely responsible; for the municipal election is thereby made less susceptible to control by the ward boss. Thus, under election at large, the political leader who is known and recognized by the general electorate has an immeasurable advantage in the election over the

ward leader who is without support outside the confines of his own ward—an advantage which tends to eliminate the latter type from the contest. Log-rolling is commonly regarded as the pernicious accompaniment of the ward plan of election, but log-rolling in itself is a lesser evil than the ward type of municipal candidate: the domination of the election by ward politicians has frequently shut out the higher type of political leader from municipal politics.

However important a factor the general ticket plan of election has been in bringing a better grade of men into the city's service, the conspicuous character of the commissioner's office has probably been more important; for, if the elective officer under the commission plan had been wrapped in the same obscurity which gathered around the old municipal officer, it is extremely doubtful whether the character of the public official would have been perceptibly changed. On this point the experience of American cities speaks decisively. Nothing has been more influential in keeping competent men from the public service than the curtailment of the powers of municipal officers which took place during the latter half of the last century. In some instances these powers were

juggled by the state legislature in the interests of the dominant party in the state; in others they were distributed among a number of newly created officials, no one of whom was conspicuous for his power to accomplish results in the public service—a situation likewise dictated by party interests. The result was the same in either case: whether the powers were usurped by the state legislature or divided among numerous municipal officials, the individual office became less important and the type of incumbent less efficient. Thus the experience of these years proves that the character of a public office rises or declines according as the powers associated with it are increased or curtailed. It is this fact which furnishes the key to the success of the commission plan in attracting worthier men into the public service.

In the commission government the public official has not been made conspicuous so much because of any cession of power to the municipality by the legislature as because of the concentration in a small governing body of the powers already possessed by the municipality, and hitherto exercised by a large number of officials. The distinction which attaches to the commissioner's office, together with the con-

sciousness that due credit for individual achievement will not be unnoted, gives to the position an attractiveness which is all the more effective because allegiance to the ward machine is not necessary to obtain it. "I should never have presented myself as a candidate for city office under the old government with its divided powers and doubtful honors," declared one of the commissioners of a New England city. Such men are not anxious to hold office where positive achievement is so difficult and credit for whatever is accomplished goes to nobody in particular.

It must not be inferred from what has been said that the popular political leader has been eliminated from municipal government under the commission plan. This mistaken inference has been the ground for much faulty reasoning about the new system, and has probably done more than anything else to obscure the real issue in the movement for commission government. Thus honest political leaders and their followers are frequently prejudiced against the new system because of their belief that its object is to banish the popular leader from municipal politics and to substitute for him the so-called "high-brow," or "silk-stocking," type. Govern-

ment by real representatives of the people is to be superseded by government by the "intellectual" members of the community. The same opinion is reflected in comments upon those commission-government elections in which a popular political leader or ex-official has been successful; the result in nine cases out of ten is regarded as a "reaction," a sign of the decay of a hitherto promising new system.

It cannot be too emphatically stated that the assumption of those who believe that commission government means the elimination of the popular political leader is as mistaken as their fears are groundless. Everywhere the elections in commission-governed cities bear testimony to the truth that the political leader will be elected under a system of universal suffrage regardless of the form of government. The most widely known and most successful type of the new governments have been in charge of men of this type. Thus the people of Des Moines, in the first election held under the new charter, rejected the slate of the reform element which had been back of the charter movement, and placed the new government in charge of popular leaders, who had been opposed to the new system. The people of Houston, in a recent election, placed

on the commission two popular politicians. A majority of the members of the Haverhill commission are political leaders who have served under the old government in that city.

These cases are sufficiently typical. Commission government has drawn its elective officials from the class of sympathetic political leadership as well as from the "reform" or "intellectual" elements of the community. It would perhaps be accurate to say that the new system has generally meant a higher grade of *politicians* in the public service. "All this goes to show," writes a Houston citizen, "that such a thing as lifting municipal government from the level of politics is an iridescent dream." Perhaps it is best that this should be so; if commission government can make the popular leader a careful, responsible supervisor of the city's business it will do what the aldermanic system has never succeeded in doing.

The logical result of the persistence of this political habit of the people to elect the popular political leader to public office has been usually the intrusting of the commission governments to men of sound but ordinary ability. Here again we encounter the mistaken impression which has had wide currency among those interested

in the new form of government, that the commission governments have been run by men of extraordinary personal powers, by experts in administration. A review of the personnel of the new governments does not reveal the grounds for this assumption. Even the commissions which have had the greatest success in administration—for example, Galveston, Houston, Des Moines, Cedar Rapids, Salt Lake City, and Haverhill—have not been made up of men of unusual attainments.

An appreciation of the deep-rooted tendency of our voters to place their cities in charge of men of ordinary ability has led some practical students of the question to assert that the commission plan is foreordained to failure because it provides for the popular election of the city's administrative department heads. "The rock upon which American cities have split is the popular election of administrative officials," a critic observes. The objection touches on the vital problem of the commission government—what the exact function of the elected commissioner should be.

But, in the present stage of the development of commission government, it is not possible accurately to designate the commissioner's function

as uniformly supervisory or administrative. In some cities he is in effect an active superintendent devoting his entire time to the details of his department; in others he acts in a supervisory, rather than administrative, capacity, and the actual work of the department is carried on by subordinate officials of technical training and experience. The varying charter provisions, some requiring the commissioner, as an active manager, to devote all of his time to the work of his office, and others permitting him, as a supervisor, to devote but a part of his time, show plainly that the real nature of the commissioner's function is not quite clear even in the minds of the proponents of the new system.

Still, it is eminently important to the success of the new system that the nature of the commissioner's function as head of one of the city's administrative divisions should be clearly defined and understood. This necessity results from the experience of American cities with the problem of administration. Few will deny that the method, prevalent in every American state, of selecting municipal administrative and technical officials by popular vote, has been a stumbling block in the path of our unfortunate cities. The most vicious legacy which Jack-

sonian Democracy bequeathed to American politics, profoundly influencing the political ideas and methods of our people during the first half of the last century, was the belief that the selection of administrative officials by appointment and for a permanent tenure meant the growth of a class of office-holding bureaucrats, and that the democratic doctrine of equal opportunity demanded that all should have a turn or a chance at public office. This then novel application of the democratic principle, exemplified in the Federal service by the spoils system, led, in the state and local governments, to the popular election for short terms of purely administrative officials. It is a curious fact that the state governments, which imitated the Federal system in most respects, have often departed from it in one of its most important features—the centralization of the administrative service in the hands of the chief executive.

In application this principle did not lead to the expected results. Experience proved that to exercise intelligence and discrimination in the selection of numerous officials was beyond the power of the voters; especially was a wise selection of expert administrative officials impracticable in view of the natural inability of

the ordinary voter to judge of the technical qualifications of the different candidates for the place. The logical result followed: the voter, in his confusion and helplessness, came to depend upon the party organization, which now assumed the selective function supposed to be exercised by the voters—an excellent illustration of the soundness of the political maxim that a system of government which gives to the voters a power which they are not able to exercise takes from them that power.

Popular selection meant party selection in such a case, and party selection was based upon considerations of *availability*, not of *efficiency*. The best candidate for the office requiring technical skill and training was, from the point of view of the politicians, not the man whose experience fitted him for the place, but the party worker whose usefulness to the "organization" might be conveniently recognized and retained by giving him the office. Essentially, the failure of the Jacksonian political builders in thus modifying the earlier political system was a failure to distinguish between political functions and functions of a purely administrative or technical nature: in its willingness to sacrifice efficiency to democracy, the method secured neither; effective

popular control of public officials became as impracticable as administrative efficiency.

The municipal needs of the present day are stronger than ever in their demand for a system which will insure administration by experts. The increasing social and economic complexity of modern urban life has entailed burdens and obligations hitherto unknown to local government, and if the work of meeting these needs is not carried on with the assistance of permanent experts the cities must fail in their obligations. At the same time it is plain that government by experts alone is undesirable and out of harmony with American political ideas. A staff of permanent officials which is out of touch with the electorate tends to develop into a professional bureaucracy tied up with red tape and unresponsive to the popular will and needs. It is therefore necessary that the expert should be under the constant supervision of the layman, who will thus form a connecting link between the professional staff and the people. In this way the permanent official will be brought into contact with the needs of the people, and the people, through their elected supervisors, will possess the means of controlling the permanent official. As President Lowell, of Harvard, put

it at a meeting of the National Municipal League:

"The current management, and, for the most part, the suggestion of improvements ought to lie with the expert, but he ought to work under the constant supervision and control of unprofessional men representing the community at large. The expert ought to devote his whole time to the business and receive a salary high enough to pay for the whole time of a man with the capacity required. The person who oversees him ought to be expected to give far less of his time. If he gives much it is because he undertakes to do himself what had better be left to experts. . . . His duty is not to administer, but to supervise and direct the administration."

It is precisely this adjustment between the professional and lay elements in the government which has been responsible for the marked success of the English borough governments. As in the commission plan, the legislative and administrative powers of the English borough are vested in the council, which is the sole governing authority. The actual work of administration is carried on by a permanent staff of experts acting under the supervision and control

of standing committees of the council. Thus the watch committee supervises the police administration of the English borough. In the same manner the library and school boards of American cities have been for several years supervising, with distinct success, the permanent corps of experts in charge of the public libraries and schools. We are not compelled, therefore, to subscribe to any new or untried principle in advocating municipal administration by a permanent staff of experts working under the direction of elective laymen.

The principle of an elective supervisory official is clearly in harmony with what American and English experience has shown to be the most effective working principle that may be applied to the government of cities in a democracy. The member of the governing council in the commission city, being an elective official, cannot be expected to be an expert official. Indeed, experts will never accept an office of such uncertain tenure as that subject to the fluctuating influence of politics. The commissioner may be an efficient, unprofessional, *supervisory* official, however, acting in the same capacity as the English council committee: and in such a capacity he will reach his maximum efficiency. It

is its clear recognition of this truth that makes the commission-manager plan a constructive modification of the commission system. Under such clearly defined distribution of functions between the elective and the permanent official, each official will exercise that kind of function for which he is best fitted. This proposition, clearly understood, settles the crucial point in the problem of commission government.

If the commissioner's function is defined as supervisory with respect to his relation to the administrative service, the question may arise: Will it not now become necessary to have a permanent expert department head working under the supervising commissioner? This question must be decided with reference to the character of the commissioner's duties. In the small city, where the affairs of the different divisions of the department are left to the charge of the subordinate officials, these duties would be comparatively light, and only the general direction of the activities should rest with the commissioner. Under such circumstances the commissioner would be able to direct the work without the aid of a permanent head. It is probable, on the other hand, that the work of directing one of the great departments of the large city

would be too onerous and too complex for the layman to discharge without the aid of a permanent administrative head, in which case it would be found necessary to institute the permanent official.

When it has become definitely understood that the proper functions of the commission should be legislative and *supervisory*, and not *administrative*, charter framers desiring to construct upon the commission model will have a well-understood basis upon which to work, and questions which frequently perplex them at the present time will take care of themselves. For example, one of the mooted questions at present is whether the commissioner should be required to give his whole time or only a part of it. If by the charter expected to spend his whole time in the public service, obviously he is to become an active superintendent, attending to the numerous details of his department, so that any other occupation than that of the city would entail negligence and inefficiency. The present tendency toward the high-salaried commissioner, devoting all his time to the office, would seem to indicate that the elective department head is coming to be looked upon as an active superintendent, rather than a supervisory head. But

to pay him a high salary and require all his time practically prevents the use of a highly paid subordinate, upon whom the success of the administration primarily depends. The commission can attain its maximum efficiency only by assuming a supervisory attitude toward the administrative service.

With the development of the commission plan into a more distinctly supervisory character, the American people will have worked out a system of city government which does not differ in essential principles from that with which they started out, the council plan. The machinery of the commission government is more centralized and more responsive, but the relation between the elective official and the permanent administrative staff is common to both systems. It is upon these principles that the permanent efficiency of the commission government must rest, just as it was a disregard of these principles that caused in a large measure the failure of the reform municipal systems of the past thirty years. If the commission plan is made to conform strictly to these principles, there is reason to believe that it will not become, as some believe, the subject of a tale "full of sound and fury, signifying nothing."

# CHAPTER IV

## FIXING RESPONSIBILITY

No one will deny that the present municipal awakening is bearing fruit in constructive municipal effort. There have been stirrings of the municipal conscience before, but always the registering of a political protest was the only result; the political machinery of the city would be patched up and a respectable set of men placed in charge of the bolstered-up mechanism, which would now be expected automatically to insure good government. The present awakening is more than a protest; it is a protest combined with a constructive policy. This time there is no mere patching of the machinery, tempered with care not to molest the sacred principle of checks and balances on which it was built; rather is there the constructing of a new machine on a new principle.

That new principle is centralization. All legislative powers in the commission government are lodged in a small council; and the organiza-

tion of each of the administrative departments is centralized under the authority of a single council member, who in turn is subject to the supervision of the council. It is this centralized character that has inspired the highest praise of the advocates, as well as the bitterest attacks of the opponents of the new system.

No one familiar with the practical working of the ordinary city government in the United States would deny that its greatest weakness lies in its senseless division of powers among numerous authorities. Glancing at the history of American municipal development, one is struck with the fidelity with which the principle of divided powers has remained the underlying basis of that development. Regarded as the most efficient political principle making for individual liberty, this tenet of eighteenth-century French political philosophy, already thriving in many of the colonial governments, was seized upon by the framers of our Federal Constitution and made the basic principle of that great charter. That the same principle should be applied in the reorganization of the state governments after the formation of the Union does not arouse wonder, since the states were then regarded as small nations, as far as the character

of their functions was concerned. Neither is it to be regarded as phenomenal that the same principle should have speedily found its way into the rapidly developing sphere of municipal government, since the character of the municipal problem was not then clear. Long years of dearly bought experience were to intervene before the mistake of building a municipal system on this principle was to become clear to the people. Indeed, the lesson is not at this late date fully grasped by a majority of our urban population.

It can never be said of the American people that they have not had full faith in the principle which they made the foundation of their Federal system. They carried that principle into their state governments; and at last they made it the foundation of their municipal structures. Like the National Government, the city was given its legislature, its executive, and its judiciary; like the National Government, it received its Senate and House of Representatives, though under different names; like the Federal executive, its executive could not exercise his powers of appointment without the consent of a legislative chamber; like the Federal legislature, it could not exercise its legislative powers without the coöperation of the executive.

It is plain that the thought never occurred to the framers of our early city governments that there might be a difference in nature between Federal and municipal functions; a clearer understanding of the functions of the municipality would have revealed the need for a system organized primarily with a view to administrative rather than legislative efficiency. "The Americans," wrote Mr. Bryce, "failed to adapt their institutions to conditions in their municipal development."

Experience soon proved that the principle of checks and balances, under the conditions of American urban life, was efficient neither as a basis for a legislative organ nor as a foundation for an administrative organ. A decentralized machinery, designed to prevent arbitrary and ill-advised action, only served to make impossible positive and effective action when the interests of the people demanded it. Thus the system failed to prevent the arbitrary granting away of the most valuable properties of the people in the form of franchises; an adequate sanitary system, a sound financial policy, and a constructive policy of public improvements were equally visionary. The expected "god-out-of-the-machine" failed to appear to rescue the city from its difficulties.

And since the concomitant of divided authority is divided responsibility, it became impossible to fix the blame for legislative corruption and incompetency. So glaring became the inefficiency of municipal legislative bodies that the system was modified in the closing quarter of the last century by the creation of the so-called Board System. Functions which had been misused by the executive and legislative branches were now intrusted to separate boards, which became in a large measure independent authorities. The defects of the principle of distributed powers were to be cured by a further application of the same principle! What was sorely needed was a centralization of municipal machinery; what was got was a further decentralization. Division among a few became division among a multitude of semi-independent branches, no one of which could accomplish anything without the coöperation of the others.

As an administrative organ the defects of this decentralized system have been not less palpable. If the mayor jobbed his patronage and filled the administrative offices with incompetent officials, he could excuse himself by saying that the confirming branch would not have approved his selections; if he failed to maintain a high

standard in the city's departments, he could complain that the legislative branches had refused to support him with the necessary supplies. Even a competent official was powerless to accomplish anything in the public service without the coöperation of other authorities, and these could refuse to coöperate. Mr. Bryce found that in Philadelphia seven different authorities had the power to tear up the pavements, and no one of these possessed the specific duty to put them down again. Similar examples may be found in almost any city that has been governed under the senseless system of distributed powers.

Of course it would not be correct to attribute the whole of our municipal misrule to the inadequate system which has been described. It may not be unreasonable to say that if we had possessed a perfect form of municipal organization Mr. Bryce might still have been able to write of "the one conspicuous failure." The conditions of American politics would doubtless have rendered any municipal system partly ineffective. The full significance of the municipal problem had not dawned on the political consciousness of the people; their political energies were centred in the field of national politics,

where the great problems of the nation's development occupied the centre of the stage.

It was not without the tacit assent of the people that the national political parties exploited the municipalities to strengthen their own organizations; there was a general feeling that anything was justified which contributed to the fighting strength of these great organizations which were endeavoring to work out the tremendously serious problems of our national life. The important point, so far as the question of municipal system is concerned, is that the plan of checks and balances, then as now, played into the hands of the most sinister influences of American politics, facilitating municipal misrule, and rendering insurmountably difficult the efforts of those who were striving for permanent improvement.

Moreover, because of the popular belief that a decentralized system was self-acting in its protection of the democratic principle, this system served to prolong the apathy of the municipal electorate and to postpone realization of the truth that "no charter is a self-executing instrument of righteousness," and that eternal vigilance is always the price of good government. If its plan of shifting the responsibility

for municipal misrule upon the voters of the city, making an eternal demand upon their vigilance, were the sole merit of the commission government, it would still deserve the admiration of all friends of good government.

But its refusal automatically to insure good administration without the aid of a wholesome public sentiment is not the sole merit of the new system. It creates an efficient mechanism for the administration of municipal business. The small size of the governing council permits a rapidity of action and thoroughness of execution that are sorely needed in the management of the affairs of a city. The centralization of machinery, characteristic of the organization of each of the departments, obviates the necessity for the coöperation of numerous officials in order to get anything done. Before the adoption of the commission plan in Cedar Rapids it took a real-estate dealer six months to get a plat of a new subdivision approved for his firm; under the subsequently installed commission government it took the same dealer one day to get a similar plat approved. This is but one of a hundred instances that could be cited in illustration to show the superiority of the commission government as an administrative organ.

Well did a publicist declare that "administrative skill, to be effective, must be centralized."

But efficiency not only arises from the power of effective action; it flows also from the stimulus to effective action, and this stimulus is furnished in the new plan, by the definite centring of responsibility. The elective members of the council, according to experience, are spurred to their best effort by the consciousness that public attention is centred on them, and that they will be held to render an account of their stewardship. So effective an incentive has this centralization proved in commission-governed cities that politicians of mediocre ability, elected to office under the commission plan, have developed unexpected efficiency. "If I find when I start to my work in the morning that the streets are unclean, I know who is responsible," declares a Galveston citizen. The fact of this citizen's knowledge is not nearly so important as the fact that the Commissioner of Streets and Public Property is aware that the citizen knows who is responsible. "We went to Commissioner Hamery," writes a Des Moines citizen, "and told him he was responsible for the red-light district, and that district was wiped out." The commission government has been sensitive to public opinion.

Doubt has been expressed by some excellent people whether the small governing body created by the commission charter will furnish a genuine representation of the interests of the city, and, in the light of our hitherto accepted theories of representation, the question is deserving of consideration. Nevertheless, it is to be remembered in this connection that a small council has generally been found from experience to be more genuinely representative than a large council. A governing body is to be declared representative, not on a basis of its size, but on a basis of its acts, its responsiveness to the popular will. It is not the size of the council, but the *size* of the men who constitute it and the position in which they are placed, that determines whether the government will be really representative of the people on whom it operates.

And, finally, the element of simplicity is embodied in the commission plan. Perhaps one of the greatest dangers to democratic government arises from the inherent tendency of all government to become increasingly complex. As long as the government is simple of operation there is good reason to believe that democracy may be made to endure, for the people will be able themselves to control it. But when the mechan-

ism of government becomes so complex as to require a class of political specialists to operate it, the function of the people becomes extinct, and with the passing of the means of control will pass the control itself. The great problem, then, is how to organize the machinery of government so as to provide for the efficient administration of the increasingly complex public business, and at the same time preserve for the people the function of controlling that machinery.

The commission plan appears to offer an effective solution as far as municipal government is concerned. If the government outlined in this charter is efficient from the point of view of the administrative official, who is no longer harassed by checks and balances, but is given ample power to accomplish something for the public interest, it is also simple from the point of view of the citizen who is no longer bewildered by the tanglewood of machinery which has been miscalled "democratic." The citizen's function is simple: it is to choose at stated times a few men to direct the administration, and to keep himself informed as to the manner in which these trustees are performing their work. He will be able to choose these officers intelligently because there are but few to choose; and he will be able to

know whether they are doing the task set for them because of the small number to be watched, the definiteness of their duties, and the methods of publicity which the charter enforces upon them.

# CHAPTER V

## CHANGING MUNICIPAL ORGANIZATION TO PRESERVE MUNICIPAL DEMOCRACY

"The commission plan of city government is un-American and un-democratic; it is a revolutionary departure from American political ideals that can be justified only on the ground that an absolute oligarchy is the best form of government on earth." This striking sentiment was expressed at a recent hearing by the joint committee of a New England legislature on a permissive bill giving certain cities of the state power to adopt the commission form of government. The author of the statement was a politician known throughout the state in whose assembly he serves; but the same sentiment has been expressed by a profound student of politics and law at present occupying a professor's chair in a famous law school. Everywhere the question of adopting the new form of government comes up it meets the eternal objection of being

un-American and out of harmony with our political ideals, and everywhere this objection recruits votes for the opposition.

What weight should be given to this charge? How does the foremost municipal tendency of the decade square with the American political tradition? Is the new plan oligarchical, unrepresentative, and dangerous, as its enemies assert? The question, although it has received little or no consideration from the proponents of the new government, is nevertheless a fair one among a people committed to democratic institutions.

What is the basis of the indictment against the commission government? Fundamentally, it is that the new government is not built on the principle of the division of powers; any system of government which concentrates all powers in a small number of persons, it is asserted, is oligarchical. But, it may be observed, that the first requisite of an oligarchical system is that *absolute powers* shall be vested in the governing body. Now, the commission plan does not lodge *absolute* power in the governing organ. By the Des Moines charter all administrative powers are vested in the governing council, but all legislative powers are lodged in

the council *and the people*, by means of the initiative and referendum. A significant and vital feature of the commission system is that the people may exercise directly any legislative power, and that the council is permitted to exercise an important legislative power *only when it is supported in its action by public sentiment.* An oligarchy does not rest upon the people. In one sense, the commission plan is a government of divided powers; the important legislative powers are divided between the council and the people. But there is no division of powers as in the aldermanic system.

The charge that the centralized character of the commission government stamps it as oligarchical is further weakened by the fact that it has many times been recognized in American government that where power is centralized in responsible hands there is no danger of tyrannical rule. The New England town-meeting system, which has been called the most perfect form of democracy ever practised, lodges all important municipal powers in a small board of selectmen between the annual meetings of the voters; the important powers of the present New York government are vested in a single board—the Board of Estimate and Apportion-

ment; and the broad powers vested in the presidency of the nation led the eminent publicist, Henry Jones Ford, to call that office "an elective kingship." The principle of centralized power in the United States is older than the commission government, and will probably outlive it.

Those who criticise the commission system of city government because of its centralized character forget that a legal distribution of power among different authorities, such as obtains in the ordinary American municipality, by no means insures a real distribution of power. Who will deny that in most American cities the real power has been exercised by a few self-constituted rulers, who generally have had no official connection with the government? Experience tells us that, though the power may be divided *in* the government, it will, nevertheless, be concentrated *outside* the government; the traditional American system designed to insure government by the many, inevitably under American municipal conditions, means government by the few.

And yet it is not the idea of concentration that is at fault; the weakness of the present system lies in the fact that the power is concentrated in irresponsible hands. American experi-

ence would seem to say that city government by the few is inevitable, and that the question to consider is whether those few who do the governing shall be made responsible officials under popular control, or irresponsible politicians not under popular control. The commission government rests upon the theory that the governing few should be responsible, that municipal power should be concentrated—but not in an irresponsible Cox, Ruef, or "Bathhouse John."

The charge that the commission plan is unrepresentative rests upon the smallness of the governing body and the provision for the election at large of the members. A genuinely representative council, it is said, must contain more than five members, and the members must be chosen by wards. How can the different municipal interests be represented by such a small council as that created by the commission charter?

"It will be found that the greater the number of legislators, the fewer will be the number of those who actually direct and control the proceedings," wrote Alexander Hamilton, in the "Federalist." Our municipal experience has proved the wisdom of this observation made

more than a century ago. The large legislative body, instead of being more representative, is even less representative than the small one, for it does not feel that responsibility which weighs upon the small body, holding its members to a keener sense of duty. It is not the size, but the acts of the council that determine whether it is representative or unrepresentative.

And it is rather late in the day to assert the superiority of the ward plan of election. If our political experience proves anything, it proves that the ward system of election means legislation in the interest of particular wards rather than legislation in the general interests of the city. The ward plan encourages the councilman to demand from the city all he can get for his own ward, regardless of the effect on the interests of the city as a whole. The plan of election at large encourages him to act in the interest of the city as a whole without regard to the selfish desires of any particular ward. Under the ward system municipal legislation becomes a matter of barter and trade and the municipal legislature an arena for the contending, selfish interests of local districts.

Again the domination of the municipal election by the ward politicians has been an effective

preventive to the participation on any extensive scale of the higher type of political leader in municipal politics. The ward system of election in city government means the ward type of official in city office. To the truth of this proposition the higher grade of officials which has been attracted to the commission governments under the general ticket plan of election abundantly attests. It would be incorrect to say that the plan of election at large accounted for the success of the commission government; it would be equally incorrect to say that it was not an element in that success.

That a small municipal governing body, elected at large, should be inherently unrepresentative is further disproved by the whole trend of contemporary political experience. Time and time again a single elective officer has reflected public opinion more faithfully than a large body of elective representatives. Who would contend that the New York legislature in recent years expressed more accurately the popular desire than Charles E. Hughes? Who would say that the legislature of Missouri was more representative of the people of Missouri than Joseph Folk? Did President Roosevelt or the ninety-two Federal senators express the will

of the American people during the years 1901-8? The whole trend of contemporary American politics points to a growing recognition of the efficiency of a single political principle: the centralization of power in responsible hands. And municipal experience, like national and state experience, has contributed to the proof of this proposition.

But if the charges of oligarchy and failure to provide a genuine representation of the electorate have had a conspicuous place in commission-charter campaigns and written discussions of the question, they have not approached in influence the accusation that the new system makes a dangerous departure from American political theory in fusing the appropriating and expending authorities. "No feature," declares Commissioner MacVicar, of Des Moines, "arouses more discussion than the fusion of these two authorities."

It may be observed that while the principle of separating these important functions has received wide application in our national, state, and municipal governments, it has not always been universally recognized as the opponents of commission government generally assume. Our earliest city governments vested both functions

in the council after the manner of the English Borough system, and it was not until the influence of the Federal principle of the division of powers began to make itself felt that the council was divested of its power to spend the city funds. Again, the county governments in most of the states have embodied this principle of fusion, and the majority of the school committees at the present time both appropriate and spend the school funds. Likewise state appointive commissions have frequently been given power both to appropriate and spend public funds.

Nevertheless, it must be admitted that, despite these apparent exceptions, the principle of division has been very generally regarded in this country as a proper safeguard against wastefulness and corruption. The fact that the county governments are commonly referred to as proof of the failure of the plan of intrusting these two functions to the same body is significant as showing the cause for the deep-rooted distrust of this method. The county governments built on this plan have not been successful; they generally merit all the condemnation which they receive from those who are shocked at their wastefulness and extravagance. Indeed, some states, especially Indiana, gave legal expres-

sion to their dissatisfaction with the plan by creating a county council, with exclusive power of appropriation to act as a check on the county commission which hitherto had exercised both functions.

It is not unnatural, then, in view of county experience with the plan, that the proposal to give the governing council of the commission-governed city the power to appropriate and disburse public funds should arouse immediate opposition. And yet the failure of the county government does not afford a sound reason for condemning the principle as applied in the commission system of city government. The county commission has never operated under conditions favorable to its success. It has never stood, for instance, in the limelight of publicity which surrounds the commission government. "Even in the South," wrote James Bryce, "it has continued to be an artificial entity, and has drawn to itself no great part of the interest or affections of the citizens. It is too large for the personal interest of the citizens; that goes to the township. It is too small to have traditions which command the respect or touch the affections of its inhabitants; these belong to the state." In other words, our county governments do not perform functions

that attract effective public attention. It may be added that the county government has never been subjected to such popular checks as the initiative, referendum, and recall. It lacks the popular character without which wastefulness and extravagance are apt to thrive under any system of administration.

Likewise the experience of the appointive commissions and of the early city councils fails to throw any light on the question of fusion. The state-appointed commissions, being a part of a decentralized and complicated machinery, never enjoyed any considerable measure of public interest or attention. Again, the municipal councils which exercised these powers were large and unwieldy, worked through clumsy committees and rested upon ward representation. To discredit the principle of the fusion of appropriating and expending power in a single body it is necessary to show that the principle has failed under the circumstances and conditions similar, at least, to those which surround it in the commission government. All that can be inferred from past experience is that it is unwise to lodge appropriating and expending powers in a single organ which does not rest upon a genuinely popular basis and does not receive the effective interest of the public.

Not only does our limited experience (outside of the commission governments) with the plan of fusion fail to furnish adequate argument against it; the great bulk of experience with the plan of separated functions tends even to favor the fusion of these functions.

A few incidents drawn from the experience of Indianapolis under a government in which the appropriating and expending powers have been carefully separated will illustrate the practical working of this system which has been regarded as possessing a peculiar virtue. A few years ago there was an epidemic of diphtheria among the school children of Indianapolis, and the health board decided on a policy of medical inspection in the public schools. An appropriation of $4,000 with which to carry on the work was requested of the council, which is the appropriating authority, but that body declined to make the appropriation, the real reason apparently being that the son of a councilman had been discharged by the health board. It was only through persistent public agitation that the appropriation was finally obtained. The health board has since secured a law from the legislature which provides a special tax for medical inspection, the money to be available by the health board without appropriation by

the council. The principle of separated functions must give way to the principle of fusion when the vital interests of the people demand it!

The health board for several years begged the council for money to build a much-needed contagious disease hospital and other buildings, but without success. Likewise, the board has had endless difficulties in obtaining the needed appropriation for the city hospital. What is the cause of these difficulties? Not a shortage of funds, not a lack of bonding power, but presumably because the health board and the hospital were out of politics and little could be gained by giving them the requested appropriations.*

Indianapolis is not the only city which has suffered from the separation of the appropriating and expending authorities, but her experience is strikingly typical. How often have the interests of a city or the health of the people of an entire state been placed in jeopardy by the failure of these two authorities to coöperate when there was a vital need of coöperation! And who is to blame for the lamentable consequences that frequently follow? Each authority shifts the responsibility

*As this volume goes to press fresh proofs of the breakdown of the system of checks and balances in Indianapolis is offered by a bitter struggle between the mayor and council for control of the city's finances.

upon the other, and, in the end, both escape the popular wrath which cannot concentrate upon the culpable authority. Is the mayor accused of failing to maintain a proper standard of administration in one of the city's departments? He excuses himself by declaring that the appropriating authority, the council, refused to grant the necessary funds. Is the council accused of withholding necessary supplies? It answers that the money would have been misapplied by the executive. Thus is created a vicious circle in which extravagance and inefficiency take refuge in a hopeless division of official responsibility.

After all, the most conclusive answer to the charge that the fusion of appropriating and spending authorities encourages arbitrary and extravagant administration is written in the record of the commission-governed cities. For the facts of this record standing out in boldest relief are the responsiveness of the commission councils to the popular will, and their tendency toward economical administration of the public business.

Is the commission government a violation of the traditional American doctrine of democratic rule? An analysis of the new system would seem to say that it is not. The commission government represents a departure from the *forms*

of municipal democracy which evolved under the influence of the federal analogy; it does not represent a departure from the *spirit* of municipal democracy which was erroneously supposed to be embodied in these forms.

# CHAPTER VI

## THE COMING OF THE BURGOMASTER

A PREDICTION that the professional, non-political burgomaster was destined one day to appear in American city government would have made its author, a few years ago, a prophet without honor. Nevertheless, he would have been a prophet; for, strange as it may seem to those familiar with the political habits and prejudices of our people, the Burgomaster has appeared, and at the present time over half a million Americans, living in some forty cities, are governed in the manner of the Germans. "The City Manager" is the name which these cities have bestowed upon the new official; but he is the same German burgomaster transplanted and renamed.

The idea of having a professional manager to transact the administrative business of a city originated in Staunton, Virginia, where, six years ago, the city council created the office of

general manager, and invested him with the administration of the various city departments. A state constitutional provision, requiring cities to maintain their mayor and bicameral council, prevented the people of Staunton from further simplifying and centralizing their city administration. But in 1911 the Board of Trade of Lockport, New York, submitted to the legislature at Albany a municipal plan which centralized legislative powers in a small commission, at the same time providing for the centralization of all administrative and executive powers in a controlled "city manager." The New York legislature defeated the Lockport measure; but in the following year the South Carolina legislature gave to the city of Sumter (population 8,109) a special charter embodying the Lockport plan, and on January 1, 1913, a burgomaster appeared in that city. During the year 1913 the city-manager plan was adopted by Hickory, North Carolina (population 3,176), and Morgantown, North Carolina (population 2,712); Dayton, Ohio (population 116,577); Springfield, Ohio (population 46,921); La Grande, Oregon (population 4,843); Phœnix, Arizona (population 11,134); Morris, Minnesota (population 1,885); Terrell, Texas (population 7,050); Ama-

rilla, Texas (population 9,957).* A general optional state law permits any city of Ohio to adopt the plan.

A centralization of legislative and administrative powers characterizes the commission-manager plan, though not in the same sense in which it characterizes the straight commission plan. There is a single elective, representative commission, or council, invested with legislative and supervisory functions, chosen in a non-partisan election, either by wards or at large, its members giving only a part of their time to the municipal work and receiving nominal salaries or none. The members of this governing body are subject to popular discharge through the recall, and their official acts are subject to popular repeal or revision through the initiative and referendum.

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*To this list should be added the following: †Norwood, Mass. (8,000 population); Niagara Falls, N. Y. (30,445); Grove City, Pa. (4,000); Titusville, Pa. (9,000); †Frostburg, Md.; †Bristol, Va. (6,000); †Charlottesville, Va. (7,000); Lakeland, Fla. (3,719); †Largo, Fla.; Ashtabula, Ohio (18,266); Sandusky, Ohio (19,999); †Glencoe, Ill. (3,000); †River Forest, Ill.; Big Rapids, Mich. (112,521); Cadillac, Mich. (8,375); Jackson, Mich. (31,433); Manistee, Mich. (12,381); †Clarinda, Iowa (4,000); †Chariton, Iowa (4,000); Iowa Falls, Iowa (3,000); †Abilene, Kan. (4,118); †Mulberry, Kan.; Collinsville, Okla. (1,324); Denton, Texas (4,732); Taylor, Texas (5,314); Montrose, Col. (3,252); La Grande, Ore. (4,843); Alhambra, Cal. (5,021); Bakersfield, Cal. (12,727); Inglewood, Cal., 2,000); Maissonvieuve, P. Q. (37,000); Port Arthur, Ont. (11,200); Westmount, Ont.

† indicates city manager grafted upon existing form of government.

The administrative and executive powers of the city are lodged in a city manager, who is hired by the commission from any place in the country, is under its supervisory control, and holds office at its pleasure. This "controlled manager," as Mr. Richard S. Child has aptly called him, controls the remaining city employees, subject to adequate civil-service provisions. He is to the elective council what the ordinary American school superintendent is to the elective school board.

As an important modification of the commission government, the commission-manager plan has aroused an active interest among charter reformers. The new plan savors sufficiently of the characteristics of the straight commission plan to commend it to those who have been impressed with the record of that system; and it contains enough added improvements to interest those who have thought the Des Moines plan to be an inadequate makeshift. In its centralized machinery, it resembles the Des Moines type; but in its investment of the elective council with supervisory, rather than active administrative, powers, and in its further unification of the administrative establishment it constitutes an important departure from the recent

tendency of the commission government to make the elective member of the council an active managerial department head.

The question of differentiating between legislative and administrative functions raises one of the most vital among the problems of municipal organization. Constructive municipal thinkers are practically unanimous, at the present time, in their acceptance of the small representative governing body; the unsettled question is whether legislative and administrative powers can safely be intrusted to an elective body, without militating against the highest administrative efficiency. At one time fear of political tyranny raised advocates of the doctrine of separated powers; to-day fear of political inefficiency moves men to oppose the same doctrine. Guarding against municipal inefficiency has become of greater moment than guarding against municipal tyranny.

From the foregoing description, it will be observed that there is not the same kind of differentiation between legislative and administrative powers in the commission-manager plan that there is in the old mayor and council plan. In the latter, the administrative powers are lodged in authorities which are in a large measure in-

dependent of the legislative body, or, at least, not under its effective control. In the commission-manager system, the administrative powers are centred in a single official, the city manager, who, however, is under the exclusive control of a single elective body. He is, in truth, a *controlled* manager, transacting the city's administrative business with the consent of the supervising council.

Out of this well-defined relation between the administrative service and the legislative branch arises the well-founded claim of the commission-manager plan to superiority over the Des Moines type. In the chapter entitled "Democracy and Efficiency," an effort was made to show what the writer conceives to be a maladjustment of the lay and expert elements in the American municipal system which evolved under the influence of Jacksonian political doctrines. It was pointed out that the tendency of commission charters of the Des Moines type to invest the elective official with active managerial functions is an unwise inclination toward the Jacksonian doctrine of the popular election of administrative officials.

A wiser conception of the function of the elective layman underlies the machinery of the

commission-manager plan. For the commission-manager charter abandons all attempts to secure administrators by popular vote, and lodges executive and administrative powers in a controlled manager, leaving the legislative and supervisory functions to the elective council. This arrangement contributes both to administrative and legislative efficiency. By giving the work of actual management to a permanent administrative expert, it secures technical, administrative skill at the place where it is most needed; namely, at the head. By removing all requirements of technical or administrative ability in elective officials, the plan broadens the field of popular choice and leaves the people free to follow their instinct, which is to choose men primarily with reference to their representative character; laboring men, for example, can freely elect their own men to the council, without at the same time imposing upon them the active management of a more or less technical department. It is exactly this adjustment of the expert and lay elements in municipal organization that explains the efficacy of the German and English city governments.

Another relative advantage of the commission-manager charter over the Des Moines plan lies

in its more thorough unification of the administrative establishment. By the Des Moines charter, each of the administrative departments is under the immediate control of the elective member of the council who has been assigned to that department by the collective action of the council, or by the voters. In theory, the department heads being subject to the ultimate supervision of the council, acting as a body, administrative harmony between the several departments is insured; in practice, however, it has not always worked out in this way. The member of the council in charge of a specific department may not be sympathetic with the policy which has been imposed upon his department by the council. In such a case, especially if he has received his department assignment by being elected to that specific department, he may choose to regard himself as responsible to the people rather than to the council, and refuse to carry out sympathetically the latter's policy. In such a situation, the elective department head becomes invested with a certain independence, which is inconsistent with the theory of undivided responsibility. Evidence is not wanting in the experience of the commission governments to show that this danger is more than

theoretical, though the new governments on the whole have worked harmoniously.

The commission-manager plan clearly is better organized to secure administrative unity, for, under this system, responsibility for the effective execution by any department of the council's policy rests upon the city manager, who is the appointee of the council, concerned solely with carrying out its declared policy. No department can refuse sympathetically to cooperate with the other departments, because the controlling head of one is the controlling head of all. The several departments, therefore, must work in harmony with each other; they take their orders from a common administrative head, the city manager, who hears only the collective voice of the council, which is the collective voice of citizenship.

It is a distinct merit of the commission-manager plan that it offers an opportunity to secure a much-needed administrative centralization without incurring the danger of the one-man power seen in the strong executive plan. The city manager, unlike the administrative head of the old system, is not an independent executive, but works under the control of the representative council, by whom he is subject to

instant correction. Thus the city will be in no danger of suffering from the personal whims or prejudices of an opinionated executive, for the administrative head of the city will now be a controlled, not an independent, executive. The way would thus be opened to a greater extension of municipal powers, unhampered by checks and balances.

In this connection, a provision of the Dayton commission-manager charter, providing for the popular recall of the city manager, deserves mention. Such a provision can only be regarded as a violation of the central principle of this type of municipal organization. If the city manager were a political official, having to do with the determination of municipal policy, he might very logically be subjected to recall by direct popular action. But, by the theory of the commission-manager system, he is a permanent, non-political official, in no way concerned with the determination of city policy, but intrusted solely with the execution of the expressed will of the representative body to whom he is exclusively responsible. Any argument, then, which would demand the subjection of the city manager to the popular recall, would demand likewise the election of the same official by popular vote.

Moreover, the application of the principle of the recall to the city manager might well tend to invest that official, in the popular mind, with an independent political character, and thus weaken or destroy his effective responsibility to the council. To the extent that his responsibility to the council is weakened, just to that extent is the centralized responsibility of the government impaired.

Moreover, the political character of the city manager could be enhanced only at the expense of the representative character of the council; for, if the people should come to look upon the former as the political head of the city, he would soon lose his character of permanent administrative expert, and the council would develop into a mere automaton for registering the popular choice of a city manager. Such a result would entail, on the one hand, a lower grade of administrative manager, and, on the other, a lower grade of legislative representative. It is difficult to see how the system, thus perverted, would, in practical effect, be essentially different from the old form of government with its strong executive and weak council. To preserve the responsible character of the representative council, or commission, in the commission-man-

ager plan, it is necessary to preserve the non-political character of the city manager, and this can be best achieved by emphasizing his sole accountability to the council.

Should the cities which adopt the commission-manager plan preserve the distinctive, non-political character of the city manager, the development in the United States of a new profession of city managership may be anticipated, which, by permitting the substitution of the permanent, expert administrator for the transient, amateur executive, would aid tremendously in the solution of the city's problems. Germany has been able to meet successfully the perplexing problems of her urban life largely because of the presence of available burgomasters, trained in the technical science of municipal administration.

Moreover, the existence of a class of expert city managers may be counted upon to develop an interpolity now practically unknown, but vitally needed, in American cities. At present, a noteworthy effort toward this end is being made by private reform organizations, like the National Municipal League and the American League of Municipalities, and by central legislative and municipal reference bureaus, which

undertake to disseminate practical information on municipal questions. The city manager migrating, like the German burgomaster, from city to city, would furnish an exceptionally valuable vehicle for this interchange of municipal experience.

And, finally, the commission-manager, like the Des Moines plan, simplifies the task of the voter. A representative organ, the council, is provided for the expression of the popular will on questions of municipal policy, and to that organ is given control of the administrative authority, the city manager, to whom is intrusted the execution of that will. The voting citizen, therefore, is not saddled with the perplexing task of selecting by ballot a large number of independent administrative authorities who can be relied upon to carry out the policy which his representatives on the council enact. It is enough that he obtain a council that stands for the policy he wants, for that council will be able, through its servant, the city manager, itself to secure the execution of its orders. In other words, the commission-manager plan embodies the principle of the short ballot.

# CHAPTER VII

## IS THE PARTY SYSTEM PASSING FROM THE CITY?

A NEW idea is abroad in American cities—that city governments can get along without the assistance of national political parties. Within a very few years this idea has taken root in almost every section of the country, has led to the adoption of the most drastic charter provisions for the expulsion of the party from city politics; in short, has declared uncompromising war on the extra-legal machinery which has heretofore been the mainspring of municipal administration. The "Organization," whose prerogative it has been to "read out of the party" members who had proved unfaithful to its interests, is itself being "read out" of the sphere in which it has long been supreme. And all this has come about because the national political party does not fit in with the new conception of city government which has lately gripped American cities.

Is the party system passing from our cities? The question should be of interest to the student of the rise and fall of institutions; but more important still, it should be of interest to the political builder intrusted with the practical task of municipal reconstruction. What causes lie at the bottom of the present movement against the party system in city government? Is the movement justified?

To appreciate the causes of the present tendency against party rule in city government some understanding of the historical part which political parties have played in our municipal development is necessary. At once the most striking and most significant fact of our municipal history has been the government of the cities by national political parties, formed on issues having no relation to the interests of the cities which they ruled; for in this country the development of municipal government was not accompanied by the development of parties formed on questions of local policy. Instead, the great national parties entered the sphere of city government and assumed the function of governing the cities, frankly confessing to no program of municipal policy. Thus the cities came to be governed by men whose position on

the tariff, slavery, reconstruction, or some question of state or national policy was the unusual cause of their selection. Why did the cities thus come under the control of extra-legal organizations whose membership was in no manner determined by their attitude toward local questions?

The answer is found in the legal conditions surrounding the American city and in the facts of our early political and economical development. In the first place, as Professor Goodnow has pointed out, although the municipality was an agent of the state government for the performance of certain state functions, a decentralized state administrative system left it practically uncontrolled in the exercise of these functions. Thus the municipality enforced state liquor laws, state education laws, collected the state taxes, and had charge of the elections in the cities for state officials. This freedom from administrative control in the execution of state laws, so characteristic of the Anglo-American political tradition, worked very well when the sentiment of the city coincided with that of the legislative majority which made the state laws, but it produced entirely different results when local sentiment was hostile to that which prevailed in the state at large. Suppose, for example, that one of the

national parties should obtain control of the state government on a platform which pledged it to a restrictive liquor policy. Fidelity to its pledges made in the campaign would demand that it enact into law the policy for which it stood in the campaign, and that it use every effort to secure the enforcement of the law thus enacted.

The performance of the first duty would be a simple matter, for the party would have control of the law-making power of the state, the legislature. The discharge of the second and equally important obligation would not be so simple, for it would not have control of the machinery intrusted with the important function of executing the liquor laws of the state, the police authorities of the cities. In order to fulfil its pledges, therefore, the party would be compelled to enter the field of local government and seize the organs which controlled the local police administrations by the election of officers pledged to carry out state policies.

If the state executive authorities had possessed a control or supervision over the municipal authorities intrusted with the execution of the state laws, there would clearly have been no excuse for the intervention of the national party in the above instance. But the absence of the

means of constitutional control or supervision made necessary a resort to extra-constitutional means. The defect might have been remedied by the establishment of a system of state administrative supervision of local officers exercising state functions, thereby insuring that the state laws would be enforced. A failure to understand the real relation existing between the city and the state, however, combined with an ingrained dislike of any proposal which was thought to encroach upon the right of local self-government to prevent any constructive legislation of this kind, and the motive for intervention continued to act, in a greater or lesser degree, on the national parties interested in the execution of state policies.

A far more potent, if less justifiable, cause for the interference of the national parties in municipal affairs was the desire of these organizations to strengthen themselves for the national and state contests in which they were engaged. Municipal government, with its large official patronage and valuable franchise privileges, afforded rich opportunities to the national party which could get control of its machinery, and city elections degenerated into mere struggles for the possession of the means wherewith to

increase the fighting strength of the contending parties. Moreover, the exploitation of the city's resources was greatly facilitated by a municipal organization marked by inefficiency and divided responsibility.

The result of all this was a reversal of the proper relation between the political party and the city government; party welfare became an end in itself and the city a means for the attainment of that end; instead of the party serving the city, the city came to serve the party.

This situation, however, could not have evolved without the tolerant acquiescence of the American people, and it is in the effort to explain this tolerance that we discover the extra-legal conditions which lie at the bottom of our municipal failure. Our people have been engrossed in their national problems, and the political conscience and intelligence, until a comparatively recent date, have been given unreservedly to what has appeared to them to be the more important questions of national development. National problems got an early grip on the people, largely because the city did not assume any great importance in American political and economic life prior to 1850. After that time slavery and reconstruction diverted the atten-

tion of the people. Read in the intense light which the problems of slavery, and of political and economic reconstruction shed upon the political horizon, the story of the exploitation of the cities by national parties is not inexplicable. In this popular preoccupation may be detected a note of tolerant acquiescence.

The growing appreciation of the importance of city government in our political life led to a clearer understanding of the evils of national-party domination of municipal affairs, and a movement appeared in the latter part of the past century which had for its object the elimination of this influence. This movement, it should be noted, did not purport to exclude the political party as an institution from municipal government, but merely to eliminate the influence of national and state politics from the local sphere. Its hope was either to bring about the formation of local parties or to force the national parties to take a stand on questions of local policy when they entered into a municipal contest.

The methods adopted to achieve this result were intended to remove both the opportunity and the temptation for national-party intervention. Thus amendments were added to state

constitutions prohibiting special legislation in the hope of withdrawing the opportunity for intervention possessed by the party in control of the state legislature; laws establishing the civil-service method of appointment and limiting the granting of public franchises and contracts were put on the state statute books, and even in the state constitutions, as a means of withdrawing the municipal patronage from the control of the party organizations; and municipal elections were separated from state and national elections that the voter might be encouraged to discriminate between issues pertaining to the city and those pertaining to the state and nation.

But although some of these measures, especially that separating municipal from general elections, brought about a distinct improvement, the cities continued, for the most part, to be governed in the interests of national and state politics. Party loyalty was too strongly rooted in the mind of the electorate to permit the summary exclusion of the old parties from the local domain; moreover, no great difficulty was found in nullifying the legal provisions which have been adopted to free the cities from the yoke of the national parties. Thus the legislatures continued to enact special legislation under the mask which

the "classification" system offered, and the civil-service and franchise limitations were set aside in various ways. Even the voters, blinded by party loyalty, contributed to the result, and could not be persuaded on election day to render to the city the things which were the city's and to the state the things which were the state's.

A widespread conviction that these efforts to eliminate national-party influence from city politics have not succeeded, has joined with a changed conception of the nature of municipal government to produce the present demand for the entire exclusion of the party system from city elections. The new conception regards city government as a business, or administrative, problem. City government, according to this conception, is merely business management, and political parties have no proper place in business management.

The organic development of American city government during the past three decades reflects in a striking manner this change of view. At first the prevailing notion was that municipal functions were political, and the municipal structure was accordingly fashioned after the Federal and state governments. Then came the "executive" system, in which the administrative character of the municipality was recognized through the creation

of an all-powerful executive who existed alongside the legislative council. This system recognized the political character of the municipality, but gave greater emphasis to the administrative side. And finally came the type represented by the commission system, which rests upon the idea that city government is primarily a business problem, requiring for its proper solution a distinctively administrative type of organization. Thus the city government, at first looked upon as primarily a political organization, has come to be regarded by a substantial part of the population as primarily an administrative organization. And the important corollary has followed that parties have no legitimate place in the municipal sphere.

How completely the administrative conception of city government, in its relation to the party system, has taken possession of the present movement for charter reform is clear from a glance at recent charter provisions. The present Boston charter, regarded as among the most constructive yet to be applied to a large city, provides for a non-partisan method of nomination and election. The Alameda, California, charter requires that nothing shall be permitted to go on the municipal ballot "indicative of the nomina-

tion or support of any candidate." The Iowa law provides for a non-partisan primary and election. The Haverhill, Massachusetts, charter provides that the ballot, both in the preliminary and final elections, shall be without party designation, "or any mark showing how the candidate was nominated or indicating his views or opinions"; that of San Diego forbids any mark whatever on the ballot, and the Grand Junction, Tacoma, and numerous other charters, require all candidates for city office to swear that they represent no political party, committee, or convention acting for any party organization. Thus we read in the most progressive charter legislation of the day a conscious effort toward non-partisanship in municipal affairs; non-partisanship, not in the sense of government without the aid of national parties, but in the sense of government without the aid of any parties whatever, national or local.

Is this movement justifiable? Will it be successful? Is the party system destined to pass from American city government? It goes without saying, in the light of American experience, that in so far as the most progressive municipal effort of to-day is directed toward the exclusion from city affairs of the influence of national and state politics, it is justified. Enough has been

said to indicate the pernicious effect of city rule in the interest of national parties which have never borne an honorable relation to local government in this country. It may be observed, however, that the mere removal of artificial aids to the national parties in winning city elections, such as is sought for in provisions for the removal of party designations from the ballot, and in provisions requiring candidates for local office to swear that they represent no party organization, or association, may not prove entirely effective unless supplemented by the granting of broad powers of home rule to the municipality. The national party may inject its virus into the local government as well through the channel of state legislation dealing with purely local affairs as through the current of the municipal elections, and the first method of approach should be made as impossible as the second. Thus the movement for the exclusion of national and state politics from municipal affairs is inextricably bound up with the movement for municipal home rule.

But what of the avowed purpose of the movement which we have been describing to eliminate from city elections all political parties, municipal as well as national and state?

An examination of the functions of the munici-

pality will show them to be of two kinds: those having to do with the determination of policies, and those having to do with the carrying out of policies which have been determined. The first class deals with such subjects as the establishment of a municipal park system, a city gymnasium, the appropriation of money, or a municipal water-works. They may be called policy-determining or legislative functions, and are similar to the functions of the national and state governments, the only difference being in the kind and extent of the subjects covered and in the geographical area affected. Thus, while the national government might be called upon to decide upon the establishment of a currency or tariff policy, the municipality might be called upon to decide upon the establishment of a municipal electric plant or water-works.

Indeed, in some instances the municipal resemble national and state functions in kind; for the municipality may consider the establishment of a city hospital for the insane just as the state government considers the establishment of a state institution for the insane; or, the municipality may consider the building of a boulevard, just as the national government may consider the construction of a national highway.

Thus the municipality exercises functions as genuinely political as those of the state and Federal governments.

Now when the municipality, as a result of the exercise of its political functions, has decided upon a policy, it becomes necessary to provide for the execution of that policy; and here arises the second class of functions referred to above, the administrative functions. But these cannot be called strictly political inasmuch as there cannot be any difference of opinion as to the way in which they should be exercised. Voters may differ as to the advisability of establishing a water-works, but they will all agree that, if the city decides to establish a water-works, the plant should be built and operated in but one way: the most economical and efficient way. Obviously the people of the city are not going to divide into two parties, one favoring the operation of the water-works on a basis of economy and efficiency, and the other advocating its operation on a basis of wastefulness and inefficiency. Administrative functions, then, do not furnish a legitimate basis for party division.

But it is otherwise with regard to the political functions. When public officers exercise powers which arouse a difference of opinion, voters will

naturally unite to secure the election of the candidates whose views coincide with theirs, and out of these forces working for union among the voters evolves the political party. Thus, as long as to municipal officers are left the determination of political or legislative functions there will be a division of the voters on municipal candidates representing different views on questions of municipal policy. And such divisions will be legitimate.

But does not this method of reasoning condemn the present efforts to eliminate the political party from municipal elections as being unintelligent and unjustified? Let us withhold judgment until we examine further into contemporary municipal tendencies.

We have seen that as long as to municipal officers is left the determination of political, or legislative, functions there will be a division of the voters upon municipal candidates. True, but is not the well-defined tendency toward direct legislation in municipal government to take from municipal officers their political functions and give these over to the people at large? Will not the initiative and referendum, which are being widely adopted by cities, transform completely the character of the municipal officer,

making him an administrative rather than a political officer?

Just how far direct legislation will be actively applied in American cities it is impossible to say. But, assuming that this new principle will receive such complete application as to transfer the determination of municipal policy from the city officers to the people, the division of the voters into political parties will still persist. The only difference will be that the division will now take place in the referendum election instead of in the election for choosing city officers. Should this situation, then, come about, the municipal parties of the future would be transitory coalitions of different city interests held together for the time by their common support of or opposition to whatever measure formed the subject of the referendum; and the personal administrative ability of the candidate, who would now be deprived of his political character, would be the only consideration to figure in the municipal election.

On the other hand, these parties of the future might conceivably take on a permanent character, and become either organizations for the promotion of definite municipal policies through direct legislation, or organizations for the pro-

motion of policies through the election of their duly selected candidates. This development likewise cannot be predicted with any certainty. It will depend upon the nature of the municipal issues of the future—whether they are permanent or transitory. Judging from our past municipal experience, in which questions of policy have generally been settled by the state legislature, one might say that no issues of a permanent nature would ever appear in city government. On the other hand, should the state grant to the city broader powers of taxation and municipal ownership than it now possesses, these subjects might furnish permanent issues to city politics.

Our brief examination of contemporary municipal tendencies, then, would indicate that, despite the sweeping charter provisions against the party system, divisions of the voters on questions of municipal policy will persist. Whether these divisions will take the form of temporary coalitions of voters, called into existence by each issue as it arises, or of permanent groups crystallized into permanent party organizations, time only can tell. It is obvious that any permanent-charter provisions which would militate against the organization of voters around munic-

ipal issues would not be consistent with a constructive program of municipal reform.

For the present, however, the legal provisions for the elimination of parties in city elections is unquestionably justified as a means of ridding the city of the yoke of national and state politics. Organization controlled nominations and party-labeled ballots are neither necessary nor conducive to healthy party activity, as English experience shows. It was frequently charged that the new system, with its large powers centralized in a small body, would increase the influence of party organs, and that the latter would redouble their efforts to control it. Experience, however, has failed to sustain this prediction; for few will deny that partisanship, in the sense of adherence to national-party lines, has practically disappeared from the commission-governed cities. The removal, by means of the non-partisan ballot and merit system, of all artificial aids to party control, and the provisions requiring candidates to swear that they represent no political party or organization, have been effective in minimizing, if not in excluding, national-party influence from the municipal campaigns. If, after the separation of city from national and state politics is completely and

permanently established, there should develop permanent party organizations formed on principles of municipal policy, it will be found necessary to discriminate in favor of local parties by striking out those present charter provisions which prohibit a candidate from representing any party organization whatever.

No one can deny the present growing tendency among voters to discriminate between legislative policy and administration. May we not reasonably hope that in time the city may be controlled by a politically chosen council which recognizes that politics has no place in the administrative side of their work? This is the case now in the English city government—a condition enforced by public opinion and sound municipal traditions. Commission-government experience, especially in the case of the commission-manager plan, affords striking evidence that the same condition is rapidly coming about in the United States.

# CHAPTER VIII

## VITALIZING THE BALLOT

THE French monarch whose motto was "Divide and rule," would have been a genius among the leaders of present-day machine politics, for he understood thoroughly the key to machine control. "Let the majority divide and we rule," calmly predicts the genius of municipal politics, and his prophecy is fulfilled by the ensuing phenomenon of a small but united minority defeating a large but divided majority. Generally, the machine boss is not put to the trouble of dividing the enemy; he can devote himself to the task of perfecting the organization of the ridiculously small minority, confident that a number of anti-machine candidates will patriotically present themselves against him. The candidate of the machine stripe beats the candidates of the good-citizen type, and the result is officially called a "plurality" election. "Defeat the two anti-organization candidates who are running against me? Why, I could beat a

*dozen* if that many were running against me," humorously remarked the machine candidate in a race for a primary nomination in which the opposition to him was divided between two candidates.

How often has the individual citizen, desiring a higher brand of public administration, longed for some means of insuring that, if his choice among the good candidates is not successful in the election, the bad candidate will *not* be successful! How can the minority, which is organized, be prevented from defeating the majority which is not organized? To put the question more concretely: how can the machine candidate, who represents the anti-public interest, be kept from winning when the great majority of the voters, though divided in their preferences among a number of candidates of their own kind, are united in their antagonism to the machine man? Upward of twenty American cities, containing more than a million and a quarter people, believe that they have found the answer to this question in the preferential system of voting.

Though not unknown to students of political science, the preferential voting plan possessed only an academic interest in this country until

Mr. James W. Bucklin, of Grand Junction, Colorado, secured its incorporation into the new commission charter of that city in 1909. About the same time Prof. Lewis Jerome Johnson, of Harvard, whose versatility led him from the building of the Harvard stadium to the building of a new municipal system, began to advocate preferential voting for municipal elections, and largely because of his influence the new system went into the new charter of Spokane in 1910, and into the proposed Cambridge charter, which, though defeated at the polls, has had a wide influence as a model charter. During the year 1911, Pueblo, Colorado, adopted the new voting plan, and by the close of 1913* the cities of Duluth, Minnesota; New Iberia, Louisiana; Denver, Colorado Springs, and Fort Collins, Colorado; Portland and La Grande, Oregon; Nashua,† New Hampshire; and Cleveland,† Ohio, were choosing their city officers by the preferential plan of selection. Meanwhile the states of Idaho, North Dakota, Washington, Wisconsin, and Minnesota have adopted prefer-

*The following cities are to be added to the list: Cadillac, Mich.; St. Petersburg, Fla.; Lethbridge, Alberta; and the commission-governed cities of New Jersey, which are granted the preferential plan by an act of the legislature passed April 7, 1914.

† Non-commission charters.

ential voting in one form or another as an incident to their state primary laws. The rapid spread of preferential voting denotes not only a willingness on the part of the people to try new political methods, but a widespread and deep-seated dissatisfaction with the present method of plurality election with its attendant minority choice.

The principle of the preferential plan is simple, despite the politicians' charge that it is complicated. The preferential ballot, a good example of which is the proposed Cambridge ballot shown herewith, differs from the ordinary Australian ballot only in having three columns for crosses at the right of the candidates' names instead of one. The voter registers his first choice for the office to be filled by placing a cross opposite his first-choice candidate's name, and, if he has a second choice, by a similar cross in the second column. He may mark as many other choices as he desires by placing crosses in the third, or right-hand, column. The various candidates are placed on the ballot by petition.*

*The number of signatures required is generally low, ranging from fifty to one hundred, although in Cleveland twenty-five hundred signatures are required of a mayoralty and two hundred of an aldermanic candidate.

It is in the method of counting the votes that the distinctive character of the preferential plan is revealed. If any candidate receives a majority of all the first-choice votes cast, he is elected. If no one has received a majority of the first-choice votes, the second-choice votes of each candidate are added to his first. If any candidate now has a majority, he is elected; if not, all three choices for each candidate are added and the highest man wins, whether he has a majority or not, for he is the candidate behind whom the greatest number of voters have automatically gathered after each voter has specified all whom he wants to support.

The practical working of the preferential plan as it has been applied in American cities is well illustrated by the results of the first election in Grand Junction, the first American city to adopt it. The following table shows the results of the vote for mayor in the election of November 2, 1909. The starred men in the list were the anti-charter and minority candidates, the others were the pro-charter and majority candidates. An examination of subsequent preferential elections shows this case to be typical.

RESULT OF THE VOTES FOR MAYOR

| | 1st Choice | 2d Choice | Other Choices | Combined | |
|---|---|---|---|---|---|
| | | | | 1st's and 2d's | 1st's, 2d's, Others |
| D. W. Aupperle | 465 | 143 | 145 | 608 | 753 |
| *W. H. Bannister | 603 | 93 | 43 | 696 | 739 |
| N. A. Lough | 99 | 231 | 328 | 330 | 658 |
| *E. B. Lutes | 41 | 114 | 88 | 155 | 243 |
| E. M. Slocomb | 229 | 357 | 326 | 586 | 912 |
| Thomas H. Todd (Elected) | 362 | 293 | 396 | 655 | 1,051 |
| | 1,799 | 1,231 | 1,326 | | |

The above recorded vote showed that no candidate on the list was the first choice of a majority of the voters, although Bannister, a minority candidate, was in the lead. Accordingly the first and second choices were added together. But here, too, the result showed no majority, and the additional choices were added to the combined first and second choices. Todd, the highest man, now won because he was the candidate who was acceptable to the greatest number of voters.

One feature of the Grand Junction plan has been ignored in the foregoing description—the dropping from the race of the lowest man as the count proceeds. Thus, by the Grand Junction method, Lutes being the man who got the smallest number of first-choice votes, was dropped

from the race after the counting of the first choices, and Lough, being the man who received the smallest number of first and second choices was excluded after the counting of the combined first and second choice votes. The objection to this modification of the Cambridge plan is that candidates are excluded from the race before they have had the opportunity of receiving their later-choice votes. This provision is really a system of weighted preferences, since it assumes that a voter's first choice deserves greater weight than his later choices. It successfully prevents a "dark horse" from winning; but a "dark horse" may sometimes be the choice of the greatest number. The Grand Junction modification has not been followed by other cities, and since it has no material effect on the above recorded Grand Junction election it may be disregarded in studying the results.*

The superiority of the preferential plan over the familiar plurality system lies in the greater accuracy with which it gauges the popular will. It cannot be claimed for the new plan that it guarantees that the winner shall be the choice of a majority of the voters; the majority of the

*See author's note on the "Australian System." Appendix p. 219.

voters may not have a common choice for the office to be filled. Thus in a recent Denver election, of the 135 candidates for five commissionerships and one auditorship, no one got a majority even by a combination of choices; and in the first Spokane election no one of the five victorious candidates out of the field of ninety-two got a majority.

BALLOT ILLUSTRATING PREFERENTIAL VOTING

As embodied in the Proposed New Charter for Cambridge, Mass.

Instructions.—To vote for a candidate make a cross (X) in the appropriate space.

Vote your FIRST choice in the FIRST column.

Vote your SECOND choice in the SECOND column.

Vote ONLY ONE FIRST choice and ONLY ONE SECOND choice for any one office.

Vote in the THIRD column for ALL THE OTHER CANDIDATES whom you wish to support.

DO NOT VOTE MORE THAN ONE CHOICE FOR ONE PERSON, as only one choice will count for any candidate.

If you wrongly mark, tear, or deface this ballot, return it and obtain another.

ONE MAN TO BE ELECTED FOR EACH OFFICE

| Supervisor of Administration (Mayor) | First Choice | Second Choice | Other Choices |
|---|---|---|---|
| Charles E. Hughes | | | |
| Champ Clark | | | |
| John A. O'Gorman | | | |
| Nelson W. Aldrich | | | |
| Richard Croker | | | |
| Robert L. Owen | | | |
| William H. Taft | | | |
| Joseph W. Folk | | | X |
| Robert M. LaFollette | | X | |
| Woodrow Wilson | | | X |
| William J. Bryan | | | X |
| Chauncey M. Depew | | | |
| Theodore Roosevelt | X | | |
| | | | |
| Supervisor of Finance | | | |
| Bourke Cockran | X | | |
| Leslie B. Shaw | | X | |
| John A. Sullivan | | | |
| Nathan Matthews | | | X |
| | | | |

| Supervisor of Public Works | First Choice | Second Choice | Other Choices |
|---|---|---|---|
| Guy C. Emerson | | X | |
| John Mitchell | X | | |
| Stephen O'Meara | | | |
| | | | |
| Supervisor of Health | | | |
| H. W. Wiley | X | | |
| | | | |
| Supervisor of Public Property | | | |
| Gifford Pinchot | X | | |
| Richard A. Ballinger | | X | |
| | | | |

The merit of the preferential ballot is that, if there *is* a majority choice, that choice will be given expression, and that, if the majority of the voters do not have a common choice, that candidate who meets with the approval of the greatest number of voters will be chosen. The preferential plan will not in all cases eliminate the plurality choice, but a plurality choice in an election in which each voter has had the opportunity of voting for *every* candidate to his liking

is obviously preferable to a plurality choice where each voter had the opportunity of voting for only one candidate. If the preferential plan does not, in a specific instance, give a majority choice, it is because there is no candidate on which the majority are united—a result which obviously is not the fault of the system. In the Grand Junction election, if the ordinary plurality method had been used, Bannister, the minority candidate whom the majority of the voters did not want, would have been elected, because he was the first choice of more voters than any of his opponents—a plain case of the organized minority defeating the unorganized majority.

The prevailing form of election in the commission-governed cities is the non-partisan system of second elections. This method, which was early adopted by Des Moines, provides for a non-partisan primary, or preliminary election, in which the voter casts a single choice for the office to be filled; and for a second election, in which the voter must choose between the two candidates who received the highest votes in the first, or primary, election. The objection to this system is that the voter's choice is limited, in the second election, to two men, neither of

whom may have a majority of the voters behind him. Thus in the Grand Junction election referred to, if the Des Moines plan of second elections had been used, Aupperle and Bannister, the two highest candidates on first choice, would have been the sole contestants in the second election, although neither of them was acceptable to the majority. The Des Moines plan secures only a fictitious majority, for its so-called "majority" vote is obtained only by choking off candidates in the preliminary election who might be more acceptable to the majority than the two who were carried over to the final election.

The Des Moines plan of second elections is in fact a defective mode of preferential voting: groups of voters whose first choice fails to qualify on the first ballot receive a subsequent limited opportunity to express a second choice. The plan at best accomplishes nothing that cannot equally well be accomplished at a single preferential election. Moreover, it is subject to serious disadvantages to which modes of preferential voting requiring a single election are not subject. It is more expensive to the state, more laborious to the voter, more exhausting to the candidate, and more disturbing to the public

peace. It is not surprising, therefore, that some commission cities should have discarded the second election plan for the preferential voting system.

No one will doubt that it frequently becomes more important to defeat a particular candidate than to elect *any one* of his competitors; from this fact arises a distinct advantage of the preferential plan of voting; for the new system enlarges the political power of the individual voter; it permits him to vote for all the candidates whom he wants, and to vote *against* the candidate whom he does not want. It is a "voting against" system as well as a "voting for" system; for, by casting a second and other votes for anti-machine candidates, the voter effectively votes *against* the machine candidate. The plurality plan gives him one chance to get his man elected; the preferential plan gives him several. The latter system, though it may not offer the voter a better chance to get the candidate of his highest preference elected, certainly offers him a better chance to get a candidate of his ideas elected.

Not least among the advantages of the preferential system is the fact that it serves to attract into the race a large number of good men, with-

out at the same time inviting the danger of the split vote. For division of the majority, on account of the appearance in the race of several good candidates, does not mean the rule of the minority, as it does under the plurality system.

Again, the preferential ballot, by doing away with the necessity of the primary election, conserves the energies of both voter and candidate. It is notorious that the primary election does not enlist the interest of the great bulk of the voters who appear in the final election—a fact of great significance. The preferential plan, then, more nearly fits the political habits of our voters of concentrating their interest in a single election, while it certainly relieves the candidate of a large expenditure of money, time, and effort. "Sane voting," as H. G. Wells calls it, is thus achieved.

Another merit of the new system of selection, which should encourage more good men to stand for office, is its tendency to elevate the character of the campaign by the elimination of mud-slinging and personal abuse. Wise candidates in preferential elections refrain from unjust criticisms and personal abuse, and emphasize issues rather than personalities. In a recent campaign

in a middle-western city in which the writer was a candidate for mayor, it became almost impossible to secure a consideration of municipal issues, so intensely personal was the campaign. Under the preferential plan not one of the three candidates in this race would have abused his opponents, for fear of driving away from him the second-choice votes of his opponents' supporters.

How widely can preferential voting be applied under American political conditions? Probably the new plan would cut across party lines and demoralize normal party integrity if used as a substitute for the party convention or primary in national and state contests. But there appears no reason why the plan should not be used as an incident of the direct primary in the selection of party nominees. In judicial, county, and municipal elections, where the contests should be either non-partisan or local partisan, it furnishes an excellent device for breaking the power of the minority. Indeed, its anti-machine character is strongly indicated by the bitterness with which machine politicians have fought against its introduction. In view of the present tendency in city government toward concentration of powers into a small body, it becomes

more important than ever that these few officers shall represent the majority instead of the minority will. As an effective instrument for accomplishing this, preferential voting may well command the attention of our political builders.

# CHAPTER IX

## MUNICIPAL FREEDOM

If, as Jefferson prophesied, the final test of democracy in America is to come in the cities, it would seem that the test should at least be a fair one. Yet the municipal machinery of the average American state permits anything but a fair trial of the democratic principle. For every student of contemporaneous municipal conditions knows that, barring those progressive communities that have adopted some form of commission government, city government is still under the curse of divided responsibility, is still in the hands of men who cannot apply the rules of municipal efficiency because they are bound by the rules of the partisan game. In these cities men are still elected to office by national-party organizations without regard to questions of local policy, and men are still appointed to municipal positions because of what they have done for their party rather than because of anything they can do for their city.

Deplorable as it is, the worst thing about this system of city government is that it is not generally the free choice of the cities that are the victims of it, but an imposition by an outside authority—the state legislature. For under the ordinary state constitution, the city is not, in theory of law, a self-governing community, but a subject province exercising its limited powers by sufferance of the state legislature, and having this or that form of government as may be given to it by the outside sovereign. The ordinary municipality does not even possess the right to its own existence; it exists only by grace of the state legislature, which, if it pleases to do so, can withdraw its lease of life at will.

Thus the city takes its right to existence, its form of government, and its governmental powers from the state, and what the state can give the state can take away. The legal validity of any act by the city, such as the issuing of bonds, the contracting for a municipal waterworks, or the granting of a municipal franchise, is determined not by the expressed desire of its citizens, but by the voice of the legislature as set out in some statute. The real seat of municipal authority, therefore, is not in the citizens, but in the state legislature. Sweep away the Fed-

eral Government and the state government would remain, because the state does not draw its life from the Federal Government. But destroy the state government and you destroy the municipality; for the municipality lives and moves and has its being in the state.

Under this system of constitutional law the cities exercise those powers that are enumerated in the state legislative grant, and only those powers. If the city wants to exercise a specific power of local government for the satisfaction of a local need, it must search the statutes for permission, and if the statutes are silent on the point, it must appeal to the state legislature for the requisite power. Thus if an Indiana city, for example, wishes to furnish ice to its citizens in the heat of summer, establish a pension fund for its teachers, or institute a civil service test for its employees, it must make its humiliating appeal to the legislative Cæsar at Indianapolis; for these powers are not nominated in the bond whereby the city lives.* No wonder an exasperated Indiana city official was once led to remark that "the only creatures without rights under our laws are outlaws, wild beasts, and municipalities." Yet that local communities

*In Indiana this is the "Cities and Towns Act."

shall have the fullest right of local self-government is a maxim of American institutions.

Not only must the city in the exercise of its enumerated powers keep strictly within the limits set by the state legislature, it must follow only such administrative methods as the legislature has prescribed. Even in the determination of the fundamental framework of their government the citizens have no legal voice. A certain city may desire the commission plan or the city manager plan; but, of its own action, it cannot get what it wants. It must take what it gets from the State House, and too often it gets an antiquated form of city organization that renders increasingly difficult the municipal problem. And not only the general framework, but the minutest detail of the administrative machinery, is often prescribed by legislative act.

Sometimes the legislature groups the cities in classes according to their population, and then imposes a detailed plan of administrative organization and powers upon each class. This frequently means that a particular city is saddled with an administrative machinery ill-fitted to its local conditions, or with administrative methods ill-adapted to its local needs. Any one who is familiar with municipal conditions knows

that even cities of the same general size often reveal the greatest diversity of conditions and needs, and that what is good for one city is often bad for another. Moreover, to imprison the city in the straightjacket of uniform legislation checks its inventiveness, for it deprives it of the opportunity of wholesome experiment with municipal methods. It impairs its individuality, for it takes from it the chance to shape its own life and development. It lessens its sense of civic responsibility, for it relieves it of the responsibility of working out its own civic salvation. Common sense joins with the principle of local self-government in the demand that local institutions be permitted to conform to local conditions.

To meet the needs of modern social and economic development the American city without right of self-government is compelled by the state constitution to appeal at every turn to the legislature for relief; but that constitution does not guarantee that the city's prayer shall be answered, or that it shall even be considered on its merits. Who can deny that politics-ridden legislatures have often refused to hear the appeal of the city for no other than a purely partisan reason? Who will deny that, just as burden-

some laws have often been imposed upon the city for partisan purpose, so needed legislation has often been denied the city for partisan advantage? The legislative history of every state abounds with testimony to show that legislative dominion over municipal affairs has been as discreditable to the state as it has been unhealthy for the city. Out of this subjection of the city have come the darkest chapters of our municipal history.

Not only does the partisan character of the state legislature disqualify it for the function of guiding the administrative development of the cities, but the individual legislators have neither the time nor the knowledge of local conditions nor the proper sense of responsibility to the urban constituency necessary to a constructive treatment of the municipal problem. Members of the legislature are largely from the rural districts and cannot in reason be expected to understand the perplexing problems of municipal government. Yet, to these men, untrained in the intricacies of municipal administration, unfamiliar with actual city conditions and busy with many problems of state policy, has been intrusted the tremendous task of controlling the city's administrative development. It is no re-

flection upon the ability or intelligence of our legislators to say that they are ill-fitted for this task of absentee law-making.

Aside from making impossible an effective solution of the municipal problem, this state-legislative dominion over the city impairs the efficiency of the legislators in the other work which they have to do. In Indiana, for example, the legislative desks for years have groaned under the burden of bills having for their object to grant to cities relief from the restrictive provisions of the state constitution and laws. During the past few sessions a perfect flood of measures dealing with matters of a purely local nature engrossed legislative time and energy that should have been put upon important matters of general state policy. We have eliminated by a Federal constitutional change one great obstacle to state legislative efficiency—the indirect election of United States Senators; it now remains to sweep away by state constitutional change another great obstacle—the state regulation of municipal affairs.

It was not so much an appreciation of this need as it was an awakening to the more flagrant evils of legislative intervention in municipal affairs that gave birth in the closing decades of the

nineteenth century to the demand for municipal home rule. The movement received great impetus from the formation of the National Municipal League which advocated a constructive policy of constitutional amendment to protect the city from legislative encroachment. Partly as a result of the league's efforts, nine states* have adopted constitutional provisions giving the cities the right to frame their own charters and increasing generally the sphere of local control. And the sentiment continues to grow. "Fundamentally the most important development in charter reform is the growth of public sentiment in behalf of municipal home rule," writes Clinton Rogers Woodruff, the able secretary of the National Municipal League. The struggle of the medieval city was for commerce freedom; the struggle of the modern American city is for political freedom.

What does "municipal home rule mean?" It means, in the first place, a reversal of the existing legal presumption against the powers of the city. Instead of possessing only such powers as are granted to it by the state legislature, the city, under the "home rule" system, is invested

*They are Missouri, California, Washington, Oregon, Colorado, Minnesota, Oklahoma, Michigan, and Ohio.

by the constitution with all powers of local government, consistent with the general laws of the state. In this way is created an unmolested sphere of local self-government in which the city may exercise all powers necessary to its own complete development, without the necessity of recourse to any outside authority and without the danger of interference from any outside authority. Municipal home rule means, further, that the city may determine its own form of government, or, as Herbert Bigelow puts it, "may cut out its own municipal suit of clothes." Thus the city decides for itself, by means of a charter convention and ratification election, whether it will have the commission plan, the city-manager plan, the mayor-and-council system, or some other form of municipal organization.

And why not? Who knows better than the citizens of Indianapolis the needs of Indianapolis and the administrative agencies that are adapted to those needs? Who can determine better than the citizens of Lexington, Kentucky, the activities of public welfare in which the government of Lexington should engage? If Detroit wants a non-partisan form of city government why should not Detroit have that form?

There appears to be no reason for excepting cities from the operation of the principle of self-government that does not apply with equal force against the principle of democracy itself.

Ours are the only English-speaking cities in the world that are denied the right of self-government. One cannot imagine, for example, legislative intermeddling in the affairs of an English city, which is permitted by parliament to develop in its own way and according to its own ideas of administrative organization. English cities since 1832 have been among the best governed in the world, and American cities have been among the worst governed. And one reason for this is that English cities are self-governed and American cities are state-governed. It has been well said that the citizens of Birmingham govern Birmingham, but that the legislature of Indiana governs Indianapolis.

Home rule for cities means municipal freedom, but it does not mean municipal freedom in the sense that there are created independent sovereignties within the state. It does not mean that the state government loses its control over matters that concern the general state welfare. Thus home rule does not require that the state surrender entirely its control over elections

in which state officers are chosen; for the people of the commonwealth as a whole are vitally interested in maintaining the purity of the ballot and in the prevention of corrupt and fraudulent practices. It does not mean that the state resigns its power to pass laws relative to the health, safety, and general welfare of its citizens. The state at large is vitally interested in the prevention of crime and disease and in the education of the people, and, although it may leave the city to provide its own administrative machinery and allow a wide diversity in methods, it must maintain a general supervisory control over these subjects. In other words, the city government is not only an organ for the satisfaction of local needs, but an agent of the state for the performance of state functions. The doctrine of home rule recognizes this. It renders to the city the things that are the city's, and to the state the things that are the state's.

But what has the movement for home rule to do with the movement for commission government? It is important that these two most important municipal tendencies of the time should not be confused. Home rule seeks an enlargement of the powers of the municipality; commission government, a more efficient organi-

zation to exercise these powers. The city's powers are inadequate, according to the first movement; its organization is inadequate, according to the second.

But though the two movements are distinctly separate and their aims different, their interests are nevertheless interwoven. It is significant that a large number of cities have obtained commission government by adopting home rule charters, notably Denver, Spokane, Tacoma, Dayton, and Springfield. And many of the commission charters granted by the state legislatures have been drawn by citizens of the city affected, and thus have had their origin in the spirit of home rule.

It may almost be said of the movements for commission government and home rule that the success of one cannot be permanently complete without the success of the other. For, while the acquisition of broad powers of local control by the municipality might work a distinct improvement in city conditions, an inadequately organized government would not permit the effective exercise of those powers in the interests of the people. On the other hand, the excellently adapted organization of the commission government would not permit it to achieve complete

results if it was without the necessary powers. If, for example, the legislature, instead of the council, exercised the power to grant franchises to public-service corporations, there would be nothing to prevent the imposition of a franchise inimical to the people's interest, no matter how responsive the commission council might be.

Again, the development of a permanent, active, civic spirit, which is as necessary to the success of commission as to any other form of government, would be seriously checked if the city did not possess ample control over its own affairs. It is significant that those cities which have shown the most wholesome public sentiment have exercised broad powers of local control. The right of self-government encourages civic patriotism because it imposes civic responsibility.

But, however clearly the success of home rule may appear to be connected with the success of commission government, that connection has not always been conceded by students of municipal reform. Thus there has been a tendency to regard the commission government as inimical to the movement for freeing the cities from the yoke of the state legislature. "If large municipal councils are eliminated from the frame-

work of city government," writes a leading authority on municipal government, "there would seem to be a danger that state legislatures would be tempted to assume for themselves some of the broader legislative functions which councils have been accustomed to exercise." Others have maintained that the commission plan is organized solely with a view to administrative efficiency and assumes that the legislative, or policy-determining, powers will be exercised by the state legislature. Similarly the New York charter commission of 1901 declared, in its report, that "there must be constant legislation by the state legislature as to city affairs unless there is an adequate city legislative body," which, to the commission, meant a numerous body.

While no step should be taken in municipal reconstruction which would afford an incentive to greater inroads upon the principle of civic autonomy, it is difficult to see why the adoption of the commission plan should be regarded as a step in this direction. It is true that state legislatures in the past have shown an unwillingness to intrust municipal boards with broad powers, but it is equally true that these boards did not rest upon a genuinely popular basis.

Sometimes elected, more often appointed, they were generally neither responsible nor responsive to the popular will, and they richly merited the distrustful attitude which the legislature assumed toward them.

Radically different are the conditions surrounding the elective council in the commission system; for here is a small governing body resting upon a genuinely popular basis. Elected by the voters at large, both their acts and their term of office subject to popular revocation through the initiative, referendum, and recall, the members of the council in the commission system do not stand in the situation of members of an appointive or even elective municipal board which is a branch of a complicated municipal machinery. It follows that if it is the irresponsible character of the board system that discourages the granting of important legislative powers to it, the responsible council in the commission plan is obviously in no danger of receiving like treatment from the legislature.

On the contrary, there are not wanting grounds for believing that the commission plan will even discourage legislative intervention. One of the outstanding causes of state interference has been the inflexible character of the old form of mu-

nicipal organization, which made it necessary for the legislature to interfere whenever local conditions required a change in the administrative organization of the city. Under the commission plan, the details of the local administrative machinery being entirely under the control of the council, there is no excuse for legislative interference in this sphere of local affairs. On the other hand, the efficiency of the commission government from an administrative standpoint will doubtless encourage the granting of broader powers of municipal ownership and enterprise, which, under the old system, have been withheld largely because the municipal organization had not proved itself efficient as an administrative organ. It is significant that no tendencies hurtful to municipal home rule have appeared so far in the commission-governed cities, and that in most instances the state legislatures have even been more generous than usual in their grants.

Thus it is that the tendencies toward municipal home rule and commission government have been in fact, as in theory, mutually beneficial and not mutually inimical; and together they have unquestionably made for municipal betterment. The first gives to the city the right

to work out its own civic destiny; the second gives to the people of the city the right to determine what that destiny shall be. With these rights secured, the city may become the hope where it has been the despair of democracy. For it will then possess municipal freedom.

THE END

# APPENDIX

# APPENDIX

## I. THE DES MOINES PLAN

*As Provided by the Iowa Commission Government Act*

### CITIES AFFECTED

Section 1. That any city of the first or second class, or with special charter, now or hereafter having a population of 7,000* or over, as shown by the last preceding state census, may become organized as a city under the provisions of this act by proceeding as hereinafter provided.

### THE SUBMISSION OF THE QUESTION OF COMMISSION GOVERNMENT TO THE ELECTORS

Section 2. Upon petition of electors equal in number to 25 percentum of the votes cast for all candidates for mayor at the last preceding city election of any such city, the mayor shall, by proclamation, submit the question of organizing as a city under this act at a special election to be

*Originally this figure was 25,000. It was amended March 30, 1909.

held at a time specified therein, and within two months after said petition is filed; provided, however, that in case any city is located in two or more townships said petition shall be signed by 25 percentum of the qualified electors of said city residing in each of said townships. If said plan is not adopted at the special election called, the question of adopting said plan shall not be resubmitted to the voters of said city for adoption within two years thereafter, and then the question to adopt shall be resubmitted upon the presentation of a petition signed by electors equal in number to 25 percentum of the votes cast for all candidates for mayor at the last preceding general city election. At such election, the proposition to be submitted shall be, "Shall the proposition to organize the city of (name the city), under chapter fourteen-c (14-c) of the supplement to the code, 1907, as amended by the acts of the thirty-third general assembly be adopted?" and the election thereupon shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law in respect to other city elections. If the majority of the votes cast shall be in favor thereof, cities having a population of 25,000 and over shall thereupon proceed to the election of a mayor and four councilmen, and cities having a population of 7,000 and less than 25,000 shall proceed to the election of a mayor and two councilmen, as hereinafter provided. Immediately after such proposition

is adopted, the mayor shall transmit to the governor, to the secretary of state, and to the county auditor, each a certificate stating that such proposition was adopted. At the next regular city election after the adoption of such proposition there shall be elected a mayor and councilmen. In the event, however, that the next regular city election does not occur within one year after such special election, the mayor shall, within ten days after such special election, by proclamation call a special election for the election of a mayor and councilmen, sixty days' notice thereof being given in such call; such election in either case to be conducted as hereinafter provided.*

APPLYING THE LAW AND EXISTING ORDINANCES TO COMMISSION-GOVERNED CITIES

Section 3. All laws governing cities of the first and second classes† and not inconsistent with the provisions of this act, and sections 955, 956, 959, 964, 989, 1,000, 1,023, and 1,053 of the code now applicable to special-charter cities and not inconsistent with the provisions of this act, shall apply to and govern cities organized under this act. All by-laws, ordinances, and resolutions lawfully passed and in force in any such city under its former organization shall remain in force until altered or repealed by the council

*As amended by the Act of March 30, 1909.

†Ibid.

elected under the provisions of this act. The territorial limits of such city shall remain the same as under its former organization, and all rights and property of every description which were vested in any city under its former organization shall vest in the same under the organization herein contemplated, and no right or liability either in favor of or against it, existing at the time, and no suit or prosecution of any kind shall be affected by such change, unless otherwise provided for in this act.

TERMS OF ELECTIVE OFFICE AND VACANCIES

Section 4. In every city having a population of 25,000 and over there shall be elected at the regular biennial municipal election a mayor and four councilmen, and in every city having a population of 7,000 and less than 25,000 there shall be elected at such election a mayor and two councilmen.*

If any vacancy occurs in any such office the remaining members of said council shall appoint a person to fill such vacancy during the balance of the unexpired term.

Said officers shall be nominated and elected at large. Said officers shall qualify and their terms of office shall begin on the first Monday after their election. The terms of office of the mayor and councilmen or aldermen in such city

*As amended by the Act of March 30, 1909.

in office at the beginning of the terms of office of the mayor and councilmen first elected under the provisions of this act shall then cease and determine, and the terms of office of all other appointive officers in force in such city, except as hereinafter provided, shall cease and determine as soon as the council shall by resolution declare.

NOMINATION AND ELECTION OF CANDIDATES

Section 5. Candidates to be voted for at all general municipal elections at which a mayor and councilmen are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those selected in the manner hereinafter prescribed. The primary election for such nomination shall be held on the second Monday preceding the general municipal election. The judges of election appointed for the general municipal election shall be the judges of the primary election, and it shall be held at the same place, so far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal election. Any person desiring to become a candidate for mayor or councilman shall, at least ten days prior to said primary election, file with the said clerk a statement of such candidacy, in substantially the following form:

*State of Iowa*_____*County, ss.*

I (_____) being first duly sworn, say that I reside at_____street, city of_____, county of_____State of Iowa; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman) to be voted upon at the primary election to be held on the_____Monday of _____19____, and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(*Signed*)_____

Subscribed and sworn to (or affirmed) before me by_____on this_____ day of_____19____.

(*Signed*)_____

and shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number, of each of the persons so signing the said petition,

and the said petition shall be in substantially the following form:

PETITION ACCOMPANYING NOMINATING STATEMENT

The undersigned, duly qualified electors of the city of_____and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the_____ Monday of_____ 19____. We further state that we know him to be a qualified elector of said city and a man of good moral character and qualified in our judgment for the duties of such office.

| Names of Qualified Electors | Number | Street |
|---|---|---|
| | | |

Immediately upon the expiration of the time of filing the statement and petitions for candi-

dacies, the said city clerk shall cause to be published for three successive days in all the daily newspapers published in the city, in proper form, the names of the persons as they are to appear upon the primary ballot, and if there be no daily newspaper, then in two issues of any other newspapers that may be published in said city; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed, with a square at the left of each name, and immediately below the words, "Vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for councilmen, with a square at the left of each name, and below the names of such candidates shall appear the words, "Vote for four," or "Vote for two," as the case may be. The ballot shall be printed upon plain, substantial white paper, and shall be headed:

CANDIDATES FOR NOMINATION FOR MAYOR AND COUNCILMEN OF_____CITY AT THE PRIMARY ELECTION

but shall have no party designation or mark whatever. The ballots shall be in substantially the following form:

(*Place a cross in the square preceding the names of the parties you favor as candidates for the respective positions.*)

OFFICIAL PRIMARY BALLOT CANDIDATES FOR NOMINATION FOR MAYOR AND COUNCILMEN OF _____CITY AT THE PRIMARY ELECTION.

FOR MAYOR

*Name of Candidate:*_____

(*Vote for one*)

FOR COUNCILMEN

*Names of Candidates:*_____

_____

_____

(*Vote for four*) *or* (*Vote for two*) *as the case may be.*

Official Ballot attest:

(*Signature*)_____

*City Clerk*

Having caused said ballots to be printed, the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election for mayor. The persons who are qualified to vote at

the general municipal election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return thereof to the city clerk, upon proper blanks to be furnished by said clerk, within six hours of the closing of the polls. On the day following the said primary election, the said city clerk shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers of said city, at least once, the result thereof. Said canvass by the city clerk shall be publicly made. The two candidates receiving the highest number of votes for mayor shall be the candidates and the only candidates whose names shall be placed upon the ballot for mayor at the next succeeding general municipal election, and in cities having a population of 25,000 and over, the eight candidates receiving the highest number of votes for councilman, or all such candidates if less than eight, and in cities having a population of 7,000 and less than 25,000, the four candidates receiving the highest number of votes for councilman, or

all such candidates, if less than four, shall be the candidates and the only candidates whose names shall be placed upon the ballot for councilman at such municipal election. All electors of cities under this act who by the laws governing cities of the first and second class and cities acting under special charter would be entitled to vote for the election of officers at any general municipal election in such cities, shall be qualified to vote at all elections under this act; and the ballot at such general municipal election shall be in the same general form as for such primary election, so far as applicable, and in all elections in such city the election precinct, voting places, method of conducting election, canvassing the vote and announcing the results, shall be the same as by law provided for election of officers in such cities, so far as the same are applicable and not inconsistent with the provisions of this act.*

CORRUPT PRACTICES

Section 5-A. Any person who shall agree to perform any services in the interest of any candidate for any office provided in this act, in consideration of any money or other valuable thing for such services performed in the interest of any candidate, shall be punished by a fine not exceeding three hundred dollars ($300), or be imprisoned in the county jail not exceeding thirty (30) days.

*As amended by the Act of March 30, 1909.

BRIBERY AND ILLEGAL VOTING

Section 5-B. Any person offering a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided in this act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person making false answer to any of the provisions of this act relative to his qualifications to vote at said election; any person wilfully voting or offering to vote at such election who has not been a resident of this state for six months next preceding said election, or who is not twenty-one years of age, or is not a citizen of the United States; or knowing himself not to be a qualified elector of such precinct where he offers to vote; any person knowingly procuring, aiding, or abetting any violation hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be imprisoned in the county jail not less than ten (10) nor more than ninety (90) days.

CONSTITUTION AND COUNCIL

Section 6. Every city having a population of 25,000 and over shall be governed by a council consisting of the mayor and four councilmen, and every city having a population of 7,000 and less than 25,000 shall be governed by a council

consisting of the mayor and two councilmen, chosen as provided in this act, each of whom shall have the right to vote on all questions coming before the council. In cities having four councilmen three members of the council constitute a quorum, and in cities having four councilmen the affirmative vote of three members, and in cities having two councilmen the affirmative vote of two members shall be necessary to adopt any motion, resolution, or ordinance, or pass any measure unless a greater number is provided for in this act.*

POWERS AND DUTIES OF THE COUNCIL

Section 7. The council shall have and possess and the council and its members shall exercise all executive, legislative, and judicial powers and duties now had, possessed, and exercised by the mayor, city council, solicitor, assessor, treasurer, auditor, city engineer, and other executive and administrative officers in cities of the first and second class, and in cities under special charter, and shall also possess and exercise all executive, legislative, and judicial powers and duties now had and exercised by the board of public works, park commissioners, board of water-works trustees, and board of library trustees in all cities wherein a board of public works, park commissioners, board of police and fire commissioners, board of water-works trustees, and board of

*As amended by the Act of March 30, 1909.

library trustees which now exist or may be hereafter created.*

The executive and administrative powers, authority, and duties in such cities shall be distributed into and among five departments, as follows:

1. Department of Public Affairs.
2. Department of Accounts and Finance.
3. Department of Public Safety.
4. Department of Streets and Public Improvements.
5. Department of Parks and Public Property.

The council shall determine the powers and duties to be performed by, and assign them to, the appropriate departments; shall prescribe the powers and duties of officers and employees; may assign particular officers and employees to one or more of the departments; may require an officer or employee to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

ORGANIZATION OF DEPARTMENTS

Section 8. The mayor shall be superintendent of the department of public affairs, and the council shall at the first regular meeting after election of its members designate by majority

*As amended by the Act of March 30, 1909.

vote one councilman to be superintendent of the department of accounts and finances; one to be superintendent of the department of public safety; one to be superintendent of the department of street and public improvements; and one to be superintendent of the department of parks and public property; provided, however, that in cities having a population of less than 25,000 there shall be designated to each councilman two of said departments. Such designation shall be changed whenever it appears that the public service would be benefited thereby. The council shall, at said first meeting, or as soon as practicable thereafter, elect by majority vote the following officers: A city clerk, solicitor, assessor, treasurer, auditor, civil engineer, city physician, marshal, chief of fire department, market master, street commissioner, three library trustees, and such other officers and assistants as shall be provided for by ordinance and necessary to the proper and efficient conduct of the affairs of the city; provided, however, that in cities having a population of less than 25,000 such only of the above-named officers shall be appointed as may, in the judgment of the mayor and councilmen, be necessary for the proper and efficient transaction of the affairs of the city. In those cities of the first class not having a superior court, the council shall appoint a police judge. In cities of the second class not having a superior court the mayor shall hold police court, as now pro-

vided by law. Any officer or assistant elected or appointed by the council may be removed from office at any time by vote of a majority of the members of the council, except as otherwise provided for in this act.*

CREATION AND ABOLITION OF OFFICES

Section 9. The council shall have power from time to time to create, fill, and discontinue offices and employments other than herein prescribed, according to their judgment of the needs of the city; and may by majority vote of all the members remove any such officer or employee, except as otherwise provided for in this act; and may by resolution or otherwise prescribe, limit, or change the compensation of such officers or employees.

SALARIES

Section 10. The mayor and councilmen shall have an office at the city hall, and their total compensation shall be as follows: In cities having by the last preceding state or national census a population of 7,000 and less than 10,000 the mayor's annual salary shall be $600, and each councilman $450. In cities having by such census a population of 10,000 and less than 15,000, the mayor's annual salary shall be $1,200 and each councilman $900. In cities having by such census a population of 15,000 and less

*As amended by the Act of March 30, 1909.

than 25,000, the mayor's annual salary shall be $1,500, and each councilman $1,200. In cities having by such census a population of 25,000 and less than 40,000, the mayor's annual salary shall be $2,500, and each councilman $1,800. In cities having by such census a population of 40,000 and less than 60,000, the mayor's annual salary shall be $3,000, and each councilman $2,500, and in cities having by such census a population of 60,000 or more, the mayor's annual salary shall be $3,500, and that of councilman $3,000.*

Any increase in salary occasioned under the provisions of this scale by increase in population in any city shall commence with the month next after the official publication of the census showing such increase therein.

Every other officer or assistant shall receive such salary or compensation as the council shall by ordinance provide, payable in equal monthly instalments.

The salary or compensation of all other employees of such city shall be fixed by the council and shall be payable monthly or at such shorter periods as the council shall determine.

MEETINGS OF THE COUNCIL

Section 11. Regular meetings of the council shall be held on the first Monday after the election of councilmen, and thereafter at least once

*As amended by the Act of March 30, 1909.

each month. The council shall provide by ordinance for the time of holding regular meetings, and special meetings may be called from time to time by the mayor or two councilmen. All meetings of the council, whether regular or special, at which any person not a city officer is admitted, shall be open to the public.

The mayor shall be president of the council and preside at its meetings, and shall supervise all departments and report to the council for its action all matters requiring attention in either. The superintendent of the department of accounts and finances shall be vice-president of the council, and in case of vacancy in the office of mayor, or the absence or inability of the mayor, shall perform the duties of the mayor.

ORDINANCES, RESOLUTIONS, AND FRANCHISES

Section 12. Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be complete in the form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges, or public places in any city shall be granted, renewed, or

extended, except by ordinance, and every franchise or grant for interurban or street railways, gas or water-works, electric light or power plants, heating plants, telegraph or telephone systems, or other public-service utilities within said city, must be authorized or approved by a majority of the electors voting thereon at a general or special election, as provided in section 776 of the code.

RESTRICTION ON OFFICERS AND EMPLOYEES

Section 13. No officer or employee elected or appointed in any such city shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for the city; and no such officer or employee shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for any person, firm, or corporation operating interurban railway, street railway, gas works, water-works, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of said city. No such officer or employee shall accept or receive, directly or indirectly, from any person, firm, or corporation operating within the territorial limits of said city, any interurban railway, street railway, gas works, water-works, electric light or power plant, heating plant, tele-

graph line or telephone exchange, or other business using or operating under a public franchise, any frank, free ticket or free service, or accept or receive, directly or indirectly, from any such person, firm, or corporation, any other service upon terms more favorable than is granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor, and every such contract or agreement shall be void.

Such prohibition of free transportation shall not apply to policemen or firemen in uniform; nor shall any free service to city officials heretofore provided by any franchise or ordinance be affected by this section. Any officer or employee of such city who, by solicitation or otherwise, shall exert his influence, directly or indirectly, to influence other officers or employees of such city to adopt his political views or to favor any particular person or candidate for office, or who shall in any manner contribute money, labor, or other valuable thing to any person for election purposes, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding three hundred dollars ($300) or by imprisonment in the county jail not exceeding thirty (30) days.

POWERS AND DUTIES OF CIVIL-SERVICE COMMISSION

Section 14. In cities having a population of twenty-five thousand and over, the council shall,

and in cities having a population of 7,000 and less than 25,000; the council may, immediately after organizing, by ordinance appoint three civil-service commissioners who shall hold office, one until the first Monday in April of the second year after his appointment, one until the first Monday in April of the fourth year after his appointment, and one until the first Monday in April of the sixth year after his appointment; provided, however, that in all cases in which no civil-service commissioners are appointed by the council, the council shall have the same powers and shall exercise and perform all the duties devolving upon such commissioners, as provided for in this act. In cities wherein civil-service commissioners have been appointed under the provisions of this act each succeeding council shall, as soon as practicable after organizing, appoint one commissioner for six years, who shall take the place of the commissioner whose term of office expires.*

No person while on the said commission shall hold or be a candidate for any office of public trust. Two of said members shall constitute a quorum to transact business. The commissioners must be citizens of Iowa and residents of the city for more than three years next preceding their appointment.

The council may remove any of said commissioners during their term of office for cause,

*As amended by the Act of March 30, 1909.

four councilmen voting in favor of such removal, and shall fill any vacancy that may occur in said commission for the unexpired term. The city council shall provide suitable rooms in which the said civil-service commission may hold its meetings. They shall have a clerk, who shall keep a record of all its meetings, such city to supply the said commission with all necessary equipment to properly attend to such business.

OATH OF OFFICE

(*a*) Before entering upon the duties of their office, each of said commissioners shall take and subscribe an oath, which shall be filed and kept in the office of the city clerk, to support the Constitution of the United States and of the State of Iowa, and to obey the laws, and to aim to secure and maintain an honest and efficient force, free from partisan distinction or control, and to perform the duties of his office to the best of his ability.

EXAMINATIONS

(*b*) Said commission shall, on the first Monday of April and October of each year, or oftener if it shall be deemed necessary, under such rules and regulations as may be prescribed by the council, hold examinations for the purpose of determining the qualifications of applicants for positions, which examination shall be practical and shall fairly test the fitness of the persons examined to discharge the duties of the position

to which they seek to be appointed. Said commission shall, as soon as possible after such examination, certify to the council double the number of persons necessary to fill vacancies, who, according to its records, have the highest standing for the position they seek to fill as a result of such examination, and all vacancies which occur, that come under the civil service prior to the date of the next regular examination, shall be filled from said list so certified; provided, however, that should the list for any cause be reduced to less than three for any division, then the council or the head of the proper department may temporarily fill a vacancy, but not to exceed thirty days.

REMOVALS AND DISCHARGES

(*c*) All persons subject to such civil-service examinations shall be subject to removal from office or employment by the council for misconduct or failure to perform their duties under such rules and regulations as it may adopt, and the chief of police, chief of the fire department, or any superintendent or foreman in charge of municipal work, may peremptorily suspend or discharge any subordinate then under his direction for neglect of duty or disobedience of his orders, but shall, within twenty-four hours thereafter, report such suspension or discharge, and the reason therefor, to the superintendent of his department, who shall thereupon affirm

or revoke such discharge or suspension, according to the facts.

Such employee (or the officer discharging or suspending him) may, within five days of such ruling, appeal therefrom to the council, which shall fully hear and determine the matter.

POWER TO SUMMON WITNESSES. RULES AND REGULATIONS

(*b*) The council shall have the power to enforce the attendance of witnesses, the production of books and papers, and power to administer oaths in the same manner and with like effect, and under the same penalties, as in the case of magistrates exercising criminal or civil jurisdiction under the statutes of Iowa.

Said commissioners shall make annual report to the council, and it may require a special report from said commission at any time; and said council may prescribe such rules and regulations for the proper conduct of the business of said commission as shall be found expedient and advisable, including restrictions on appointment, promotions, removal for cause, roster of employees, certification of records to the auditor, and restrictions on payment to persons improperly employed.

PENALTIES

(*e*) The council of such city shall have power to pass ordinances imposing suitable penalties

for the punishment of persons for violating any of the provisions of this act relating to the civil-service commission.

APPLICATION OF THE ACT

(*f*) The provisions of this section shall apply to all appointive officers and employees of such city, except those especially named in section 8 of this act, commissioners of any kind (laborers whose occupation requires no special skill or fitness), election officials, and mayor's secretary and assistant solicitor, where such officers are appointed; provided, however, that existing employees heretofore appointed or employed after competitive examination or for long service under the provisions of chapter 31, acts of the Twenty-ninth General Assembly, and subsequent amendments thereto, shall retain their positions without further examination unless removed for cause.

All officers and employees in any such city shall be elected or appointed with reference to their qualifications and fitness, and for the good of the public service, and without reference to their political faith or party affiliations.

It shall be unlawful for any candidate for office, or any officer in any such city, directly or indirectly, to give or promise any person or persons any office, position, employment, benefit, or anything of value, for the purpose of influencing or obtaining the political support, aid, or vote of any person or persons.

Every elective officer in any such city shall, within thirty days after qualifying, file with the city clerk, and publish at least once in a daily newspaper of general circulation, his sworn statement of all his election and campaign expenses, and by whom such funds were contributed.

Any violation of the provisions of this section shall be a misdemeanor and be a ground for removal from office.

MONTHLY ITEMIZED STATEMENTS

Section 15. The council shall each month print in pamphlet form a detailed itemized statement of all receipts and expenses of the city and a summary of its proceedings during the preceding month, and furnish printed copies thereof to the state library, the city library, the daily newspapers of the city, and to persons who shall apply therefor at the office of the city clerk. At the end of each year the council shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of such examination in the manner above provided for publication of statements of monthly expenditures.

APPROPRIATIONS

Section 16. If, at the beginning of the term of office, of the first council elected in such city

under the provisions of this act, the appropriations for the expenditures of the city government for the current fiscal year have been made, said council shall have power, by ordinance, to revise, to repeal, or change said appropriations and to make additional appropriations.

DEFINITION OF TERMS

Section 17. In the construction of this act the following rules shall be observed, unless such construction would be inconsistent with the manifest intent, or repugnant to the context, of the statute:

1. The words "councilman" or "alderman" shall be construed to mean "councilman" when applied to cities under this act.

2. When an office or officer is named in any law referred to in this act, it shall, when applied to cities under this act, be construed to mean the office or officer having the same functions or duties under the provisions of this act, or under ordinances passed under authority thereof.

3. The word "franchise" shall include every special privilege in the streets, highways, and public places of the city, whether granted by the state or the city, which does not belong to the citizens generally by common right.

4. The word "electors" shall be construed to mean persons qualified to vote for elective offices at regular municipal elections.

THE RECALL

Section 18. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition, signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least 25 percentum of the entire vote for all candidates for the office of mayor at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city clerk shall examine and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the council shall allow him extra help

for that purpose; and he shall attach to said petition his certificate showing the result of said examination. If by the clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the council without delay. If the petition shall be found to be sufficient, the council shall order and fix a date for holding the said election, not less than thirty days or more than forty days from the date of the clerk's certificate to the council that a sufficient petition is filed.

"So far as applicable, except as otherwise herein provided, nominations hereunder shall be made without the intervention of a primary election by filing with the clerk at least ten (10) days prior to said election, a statement of candidacy accompanied by a petition signed by electors entitled to vote at said special election equal in number to at least 10 percentum of the entire vote for all candidates for the office of mayor at the last preceding general municipal election, which said statement of candidacy and peti-

tion shall be substantially in the form set out in section ten hundred fifty-six-a twenty-one (1056-a 21) of the supplement of the code, 1907, so far as the same is applicable, substituting the word 'special' for the word 'primary' in such statement and petition, and stating therein that such person is a candidate for election instead of nomination.

"The ballot for such special election shall be in substantially the following form:

OFFICIAL BALLOT

Special election for the balance of the unexpired term of _____ as _____

For _____

(*Vote for one only*)

*Names of Candidates:* _____

_____

_____

*Name of present Incumbent:* _____

Official Ballot Attest:

(*Signature*) _____

*City Clerk.*" *

The council shall make, or cause to be made, publication of notice and all arrangements for

*The paragraphs in quotation marks were added by the Act of April 16, 1909.

holding such election, and the same shall be conducted, returned, and the result thereof declared, in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes should fail to qualify, within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes he shall continue in his office. The same method of removal shall be cumulative and additional to the methods hitherto provided by law.

DIRECT LEGISLATION

Section 19. Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certifi-

cation, amendment, and submission of such petition shall be the same as provided for petitions under section 18 thereof.

If the petition accompanying the proposed ordinance be signed by electors equal in number to 25 percentum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people if not passed by the council, such council shall either

(*a*) Pass said ordinance without alteration within twenty days after attachment of the clerk's certificate to the accompanying petition, or

(*b*) Forthwith after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election, unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city.

But if the petition is signed by not less than 10 nor more than 25 percentum of the electors, as above defined, then the council shall, within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring not more than thirty days after the clerk's certificate of sufficiency is attached to said petition.

The ballots used when voting upon said ordinance shall contain these words: "For the Ordinance" (stating the nature of the proposed ordinance), and "Against the Ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in each of the daily newspapers published in said city; such publication to be not

more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

WHEN ORDINANCES BECOME EFFECTIVE. PROTEST PETITIONS

Section 20. No ordinance passed by the council, except when otherwise required by the general laws of the state or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health, or safety, which contains a statement of its urgency and is passed by a two thirds vote of the council, shall go into effect before ten days from the time of its final passage; and if during said ten days a petition signed by electors of the city equal in number to at least 25 per-centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance, be presented to the council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the council to reconsider such ordinance; and if the same is not entirely repealed, the council shall submit the ordinance, as is provided by subsection b of section 19 of this act, to the vote of the elector of the city, either at the general election or at a special municipal election to be called for that purpose; and such ordinance shall not go into

effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section 19, except as to the percentage of signers, and be examined and certified to by the clerk in all respects as therein provided.

ABANDONMENT OF THE COMMISSION FORM

Section 21. Any city which shall have operated for more than six years under the provisions of this act may abandon such organization hereunder, and accept the provisions of the general law of the state then applicable to cities of its population, or if now organized under special charter, may resume said special charter by proceeding as follows:

Upon the petition of not less than 25 per-centum of the electors of such city a special election shall be called, at which the following proposition only shall be submitted: "Shall the city of (name the city) abandon its organization under chapter——of the acts of the Thirty-second General Assembly and become a city under the general law governing cities of like population, or if now organized under special charter shall resume said special charter."

If a majority of the votes cast at such special election be in favor of such proposition, the officers elected at the next succeeding biennial election shall be those then prescribed by the

general law of the state for cities of like population, and upon the qualification of such officers such city shall become a city under such general law of state; but such change shall not in any manner or degree affect the property, right, or liabilities of any nature of such city, but shall merely extend to such change in its form of government.

The sufficiency of such petition shall be determined, the election ordered and conducted, and the results declared, generally as provided by section 18 of this act, in so far as the provisions thereof are applicable.

REQUIREMENTS CONCERNING PETITIONS

Section 22. Petitions provided for in this act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city stating that the signers thereof were, at the time of signing, legal voters of said city, and the number of signers at the time the affidavit was made.

ACT IN EFFECT

Section 23. This act, being deemed of immediate importance, shall take effect and be in

force from and after its publication in the *Register and Leader* and Des Moines *Capital*, newspapers published in Des Moines, Iowa.*

*Approved March 29, 1907; amended by Act of March 30, 1909, as indicated.

## II. THE COMMISSION–MANAGER PLAN

*As Outlined in Selected Sections of the Dayton Charter*

Sections 1 and 2. Powers of city.

Section 3. Form of government.

General description: The form of government provided in this article shall be known as the "Commission-Manager Plan," and shall consist of a commission of five citizens, who shall be elected at large in manner hereinafter provided. The commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt regulations, and appoint a chief administrative officer to be known as the "City Manager," and exercise all powers hereinafter provided.

NOMINATION AND ELECTION OF COMMISSIONERS

Section 4. All commissioners shall serve for a term of four years and until their successors are elected and have qualified. Except that at first election the three candidates having the highest number of votes shall serve for four years, and the two candidates having the next highest number of votes shall serve for two years.

VACANCIES

Section 5. Vacancies in the commission shall be filled by the commission for the remainder of the unexpired term, but any vacancy resulting from a recall election shall be filled in the manner provided in such case.

ELECTION PROVISIONS

Section 7-12. (These sections provide for the usual non-partisan primary and election of members of the commission.)

RECALL ELECTIONS

Sections 13-20. (Providing for the popular recall of the commissioners and the city manager. The recall of the city manager, herein provided, is not properly regarded as a part of the commission-manager plan.)

Sections 21-35. Initiative, Referendum, and Protest.

MAYOR

Section 36. The mayor shall be that member of the commission who, at the regular municipal election at which the three commissioners were elected, received the highest number of votes. In case two candidates receive the same number of votes, one of them shall be chosen mayor by the remaining members of the commission. In event of a vacancy in the office of

mayor, the remaining members of the commission shall choose his successor for the unexpired term from their own number. The mayor shall be the presiding officer, except that in his absence a president *pro tempore* may be chosen. The mayor shall exercise such powers conferred and perform all duties imposed upon him by this charter, the ordinances of the city and the laws of the state. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes, by the Governor for the purposes of the military law, and for all ceremonial purposes.

Section 37. In the event the commissioner who is acting as mayor shall be recalled, the remaining members of the commission shall select one of their number to serve as mayor for the unexpired term. In the event of the recall of all of the commissioners, the person receiving the highest number of votes at the election held to determine their successors shall serve as the mayor.

SALARIES AND ATTENDANCE

Section 38. The salary of each commissioner shall be $1,200 per annum, except that of the mayor, who shall receive $1,800 per annum.

For each absence of a commissioner from a regular meeting of the commission, unless authorized by a majority vote of all members thereof, there shall be deducted a sum equal to 1 per cent. (1%) of the annual salary of each member.

Absence from five (5) consecutive regular meetings shall operate to vacate the seat of a member unless such absence be authorized by the commission.

MEETINGS OF THE COMMISSION

Section 39. At ten o'clock A. M. on the first Monday in January, following a regular municipal election, the commission shall meet at the usual place for holding the meetings of the legislative body of the city, at which time the newly elected commissioners shall assume the duties of their office. Thereafter the commissioners shall meet at such times as may be prescribed by ordinance or resolution, except that they shall meet not less than once each week. The mayor, any two members of the commission, or the city manager, may call special meetings of the commission upon at least twelve (12) hours' written notice to each member of the commission, served personally on each member or left at his usual place of residence. All meetings of the commission shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings.

LEGISLATIVE PROCEDURE

Section 40. The commission shall be judge of the election and qualifications of its members.

A majority of all members elected shall constitute a quorum to do business. The affirmative vote of a majority of the members elected to the commission shall be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances and upon the adoption of such resolutions as the commission by its rules shall prescribe, shall be taken by "Yea" and "Nay" and entered upon the journal. Every ordinance or resolution passed by the commission shall be signed by the mayor or two members and filed with the clerk within two days and by him recorded.

CLERK

Section 43. The commission shall choose a clerk and such other officers and employees of its own body as are necessary. The clerk shall be known as the clerk of the commission and shall keep records and perform such other duties as may be required by this charter or the commission.

Section 44. Providing for the audit and examination of administrative departments.

INVESTIGATION BY COMMISSION

Section 46. The commission, or any committee thereof duly authorized by the commission so to do, may investigate the financial transactions of any office or department of the city government and the official acts and con-

duct of any city official, and by similar investigations may secure information upon any matter. In conducting such investigations the commission, or any committee thereof, may compel the attendance of witnesses and the production of books, papers, and other evidence, and for that purpose may issue subpœnas or attachments which shall be signed by the presiding officer of the commission or the chairman of such committee, as the case may be, which may be served and executed by any officer authorized by law to serve subpœnas and other process. If any witness shall refuse to testify to any facts within his knowledge or to produce any papers or books in his possession, or under his control, relating to the matter under inquiry, before the commission, or any such committee, the commission shall have the power to cause the witness to be punished as for contempt. No witness shall be excused from testifying touching his knowledge of the matter under investigations in any such inquiry, but such testimony shall not be used against him in any criminal prosecution except for perjury committed upon such inquiry.

### CITY MANAGER

Section 47. The commission shall appoint a city manager who shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments. He shall be appointed with-

out regard to his political beliefs and may or may not be a resident of the city of Dayton when appointed. He shall hold office at the will of the commission and shall be subject to recall as herein provided.

POWERS AND DUTIES OF THE CITY MANAGER

Section 48. The powers and duties of the city manager shall be

(*a*) To see that the laws and ordinances are enforced;

(*b*) To appoint and, except as herein provided, remove all directors of departments and all subordinate officers and employees in the departments in both the classified and unclassified service; all appointments to be upon merit and fitness alone, and in the classified service all appointments and removals to be subject to the civil-service provisions of this charter;

(*c*) To exercise control over all departments and divisions created herein or that may be hereafter created by the commission;

(*d*) To attend all meetings of the commission with the right to take part in the discussion but having no vote;

(*e*) To recommend to the commission for adoption such measures as he may deem necessary or expedient;

(*f*) To keep the commission fully advised as to the financial condition and needs of the city; and

(*g*) To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the commission.

SALARY

Section 49. The city manager shall receive such salary as may be fixed by ordinance of the commission.

INVESTIGATIONS BY THE CITY MANAGER

Section 50. The city manager may without notice cause the affairs of any department or the conduct of any officer or employee to be examined. Any person or persons appointed by the city manager to examine the affairs of any department or the conduct of any officer or employee shall have the same power to compel the attendance of witnesses and the production of books and papers and other evidence, and to cause witnesses to be punished for contempt, as is conferred upon the commission by this charter.

DEPARTMENTS

*Departments Established*

Section 51. The following administrative departments are hereby established by this charter:

1. Department of Law.
2. Department of Public Service.

3. Department of Public Welfare.
4. Department of Public Safety.
5. Department of Finance.

### CHANGES IN DEPARTMENTS AND SUBDIVISIONS THEREOF

Section 52. The commission may by ordinance discontinue any department and determine, combine, and distribute the functions and duties of departments and subdivisions thereof.

### DIRECTORS OF DEPARTMENTS

Section 53. A director for each department shall be appointed by the city manager and shall serve until removed by the city manager or until his successor is appointed and has qualified. He shall conduct the affairs of his department in accordance with the rules and regulations made by the city manager and shall be responsible for the conduct of the officers and employees of his department, for the performance of its business, and for the custody and preservation of the books, records, papers, and property under its control. Subject to the supervision and control of the city manager in all matters, the director of each department shall manage the department.

### CITY COMMISSION AND ADVISORY BOARDS

Section 54. The commission may appoint a City Plan Board and upon the request of the

city manager shall appoint advisory boards. The members of such boards shall serve without compensation and their duty shall be to consult and advise with the various departments. The duties and powers thus created shall be prescribed by ordinance.

### CIVIL SERVICE

#### *Members*

Section 93. The commission shall appoint three electors of the city as a Civil Service Board; one to serve for two years and one for four years and one for six years, to take office January 1, 1914, or as soon thereafter as appointed and qualified. Thereafter members of the Civil Service Board shall be appointed to serve for six years and until their successors have been appointed and have qualified. Members of the board shall not hold any other public office. The commission may remove any member of the board upon stating in writing the reasons for removal and allowing him an opportunity to be heard in his own defence. Any vacancy shall be filled by the commission for the unexpired term.

### OFFICERS OF THE BOARD

Section 94. Immediately after appointment, the board shall organize by electing one of its members chairman. The board shall appoint a

chief examiner who shall also act as secretary. The board may appoint such other subordinates as may by appropriation be provided for.

### CLASSIFICATION

Section 95. The Civil Service of the city is hereby divided into the unclassified and the classified service.

1. The unclassified service shall include:
   - A. All officers elected by the people.
   - B. The city manager.
   - C. The heads of departments and heads of divisions of departments and members of appointive boards.
   - D. The deputies and secretaries of the manager, and one assistant or deputy, and one secretary for each department, and the clerk of the commission.

2. The classified service shall comprise all positions not specifically included in this charter in the unclassified service. There shall be in the classified service three classes to be known as the competitive class, non-competitive class, and labor class.
   - A. The competitive class shall include all positions and employment for which it is practicable to determine the merit and fitness of applicants by competitive examination.

B. The non-competitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional,or educational character, as may be determined by the rules of the board.

C. The labor class shall include ordinary, unskilled labor.

RULES

Section 96. The board, subject to the approval of the commission, shall adopt, amend, and enforce a code of rules and regulations, providing for appointment and employment in all positions in the classified service, based on merit, efficiency, character, and industry, which shall have the force and effect of law; shall make investigations concerning the enforcement and effect of this chapter and of the rules adopted. It shall make an annual report to the commission.

EMPLOYMENT OFFICER

Section 97. The chief examiner shall be the employment officer of all city employees coming under the classified service. He shall provide examinations in accordance with regulations of the board, and maintain lists of eligibles of each class of the service of those meeting the requirements of said regulations. Positions in the clas-

sified service shall be filled by him from such eligible lists upon requisition from and after consultation with the city manager. As positions are filled the employment officer shall certify the fact, by proper and prescribed form, to the city treasurer and the director of the department in which the vacancy exists.

PROMOTION

Section 98. The board shall provide for promotion to all positions in the classified service, based on records of merit, efficiency, character, conduct, and seniority.

PROBATION PERIOD

Section 99. An appointment or promotion shall not be deemed complete until a period of probation not to exceed six months has elapsed, and a probationer may be discharged or reduced at any time within the said period of six months, upon the recommendation of the head of the department in which said probationer is employed, with the approval of the majority of the board.

DISCHARGE OR REDUCTION

Section 100. An employee shall not be discharged or reduced in rank or compensation until he has been presented with the reasons for such discharge or reduction, specifically stated in writing, and has been given an opportunity to

be heard in his own defence. The reason for such discharge or reduction and any reply in writing thereto by such employee shall be filed with the board.

APPEAL TO THE BOARD

Section 101. Any employee of any department in the city in the classified service who is suspended, reduced in rank, or dismissed from a department by the director of that department or the city manager, may appeal from the decision of such officer to the Civil Service Board, and such board shall define the manner, time, and place by which such appeal shall be heard The judgment of such board shall be final.

INVESTIGATIONS

Section 104. In any investigation conducted by the board it shall have the power to subpœna and require the attendance of witnesses and the production thereby of books and papers pertinent to the investigation and to administer oaths to such witnesses.

GENERAL PROVISIONS

*Compensation of Officers and Employees*

Section 161. The commission shall fix by ordinance the salary or compensation of the heads of departments, its own employees, except

as is provided by this charter, the salary or compensation of the members of the divisions of police and fire under immediate control of the chief thereof, and of members of boards in the unclassified service of the city.

The city manager shall fix the number and salaries or compensation of all other officers and employees.

The salaries or compensations so fixed shall be uniform for like service in each grade of the service as the same shall be graded or classified by the city manager in accordance with the rules and regulations adopted by the Civil Service Board. All such salaries and rates of pay shall be reported to the city employment officer forthwith. All fees and moneys received or collected by officers and employees shall be paid into the treasury of the city.

### OFFICIAL BONDS

Section 162. The commission or city manager in fixing the salary of any officer, clerk, or employee shall determine whether such officer, clerk, or employee shall give a bond and the amount thereof, which bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Ohio. Premiums on such bonds shall be paid by the city.

## III. PREFERENTIAL VOTING

*As Provided in the Charter of Grand Junction, Colorado*

### PREFERENTIAL BALLOT

*Form.*—The city clerk shall cause ballots for each general and special election to be printed, bound, numbered, endorsed, and authenticated, as provided by the constitution and laws of the state, except as otherwise required in this charter. The ballots shall contain the full list and correct name of all the respective offices to be filled, and the names of the candidates nominated therefor. It shall be in substantially the following form with the cross (X) omitted when there are four or more candidates for any office. (When there are three and not more candidates for any office, then the ballot shall give first and second choice only; when there are less than three candidates for any office, all distinguishing columns as to choice, and all reference to choice, may be omitted.)

## GENERAL (OR SPECIAL) MUNICIPAL ELECTION, CITY OF GRAND JUNCTION*_____(Inserting date thereof)

*Instructions.*—To vote for any person, make a cross (X) in ink in the square in the appropriate column according to your choice, at the right of the name voted for. Vote your first choice in the first column; vote your second choice in the second column; vote any other choice in the third column; vote only one first and only one second choice. Do not vote more than one choice for one person, as only one choice will count for any candidate by this ballot. Omit voting for one name for each office, if more than one candidate therefor. All distinguishing marks make the ballot void. If you wrongly mark, tear, or deface this ballot, return it, and obtain another.

*Note that the Grand Junction charter, like several others, provides for the election of the commissioners to specific departments, which means that the voter elects only one man from a given group of candidates. The Spokane charter, on the other hand, provides for the election of five commissioners, leaving to the commission the assignment of the departments. The Spokane voter, therefore, selects *five* candidates, voting five first choices, five second choices, etc., from a single group of candidates. Spokane, Duluth, and Portland are the only ones of the commission-governed cities having the preferential ballot which do not elect to specific office and are thus led to the election of more than one from a group. The Spokane charter contains a provision that a ballot is void if the number of first-choice marks is not equal to the number of offices to be filled—a provision against "bulleting."

| Commissioner of Public Affairs | First Choice | Second Choice | Third Choice* |
|---|---|---|---|
| John Doe | | | X |
| James Foe | X | | |
| Louis Hoe | | X | |
| Dick Joe | | | X |
| Richard Roe | | | |
| | | | |
| Commissioner of Highways | | | |
| Mary Brown | X | | |
| Harry Jones | | X | |
| Fred Smith | | | |
| | | | |
| Commissioner of Water and Sewers | | | |
| Joe Black | X | | |
| Robert White | | | |
| | | | |

*Charter Amendments, Ordinances, or Other Referendum Propositions*

*The charters of Pueblo, Colorado; New Iberia, Louisiana; Portland, Oregon; Fort Collins, Colorado; Cadillac, Mich.; and La Grande, Oregon, restrict the voter to one vote in the third column for each office to be filled. The provisions in this respect in the Fort Collins and La Grande charters are somewhat obscure. As Prof. L. J. Johnson points out in his excellent article in the *National Municipal Review* (Jan. 1914, page 89), there is no valid reason for limiting the voter's choice.

In some charters the third column is labelled "additional choices."

BLANK SPACES FOR ADDITIONAL CANDIDATES

Section 19. One space shall be left below the printed names of the candidates for each office to be voted for, wherein the voter may write the name of any person for whom he may wish to vote.

REQUIREMENTS FOR BALLOTS

Section 20. All ballots printed shall be identical, so that without the numerical number thereon it would be impossible to distinguish one ballot from another. Space shall be provided on the ballot for charter amendments or other questions to be voted on at the municipal elections, as provided by this charter. The names of candidates for each office shall be arranged in alphabetical order of the surnames. Nothing on the ballot shall be indicative of the course of the candidacy, or of the support of any candidate. No ballot shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party or political designation or mark, or anything indicating his views or opinions.

SAMPLE BALLOTS

Section 21. The city clerk shall, at least five days before election, cause to be printed not less than five hundred sample ballots, upon paper of different color, but otherwise identical with

the ballot to be used at the election, and shall distribute the same, upon application of the candidates, to the registered voters at his office.

CANVASS AND ELECTION

Section 22. As soon as the polls are closed, the election judges shall immediately open the ballot boxes, take therefrom and count the ballots, and enter the total number thereof on the tally sheet provided therefor. They shall also carefully enter the number of the first, second, and third choice votes for each candidate on said tally sheet and make return thereof to the city clerk as provided by law. No vote shall be counted for any candidate more than once on any ballot, all subsequent votes on that ballot for that candidate being void.

The person receiving more than one half of the total number of ballots cast at such election as the first choice of the electors for any office shall be elected to that office; provided, that if no candidate shall receive such a majority of the first-choice votes for such office, then and in that event, the name of the candidate printed on the ballot having the smallest number of first-choice votes, and all names written on the ballot having a less number of votes than such last-named candidate, shall be excluded from the count, and votes for such candidate or persons so excluded shall not thereafter be

counted.* A canvass shall then be made of the second-choice votes received by the remaining candidates for said office; said second-choice votes shall then be added to the first-choice votes received by each remaining candidate for such office, and the candidate receiving the largest number of said first and second choice votes, if such votes constitute a majority of all ballots cast at such election, shall be elected thereto; and provided, further, that if no such candidate shall receive a majority after adding the first and second choice votes, then and in that event, the name of the candidate then having the smallest number of first and second choice votes shall be excluded from the count, and no votes for such candidate so excluded shall thereafter be counted. A canvass shall then be made of the third-choice votes received by the remaining candidates for such office; said third-choice votes shall then be added to the first and second choice votes received by each remaining candidate for such office, and such remaining candidate receiving the highest number of first, second, and third choice votes shall be elected thereto. When the name of but one person remains as a candidate for any office, such person shall be elected thereto regardless of the number of votes received.

A tie between two or more candidates is to be

*This provision for the dropping of the lowest man is not found in the other preferential charters. See chapter entitled "Vitalizing the Ballot," page 132.

decided in favor of the one having the greatest number of first-choice votes. If all are equal in that respect, then the greatest number of second-choice votes determines the result. If this will not decide, then the tie shall be determined by lot, under the direction of the canvassing board.

Whenever the word "majority" is used in this section, it shall mean more than one half of the total number of ballots cast at such election.

### INFORMALITIES IN ELECTION

Section 23. No informalities in conducting municipal elections shall invalidate the same, if they have been conducted fairly and in substantial conformity with the requirements of this charter.

### NOTE ON THE AUSTRALIAN SYSTEM

The so-called Hare System of Preferential Voting, used in parliamentary elections in West Australia, Queensland, and Victoria, and lately recommended by the British Royal Elections Commission, differs from the plan in use in American cities in the method of counting the vote.* Thus, by the Australian system, after the votes are tabulated according to first choices, the man with the lowest number is dropped from the race and his ballots are distributed among the other candidates, according to second

* Lethbridge, Alberta, has the so-called Hare System, which has also been incorporated in the Wisconsin primary law.

choice marked on them. If this does not bring the vote of any candidate up to a majority, the man who now has the lowest number of votes is dropped, and his votes distributed according to the second choices marked on them. This process is repeated until one of the candidates receives a majority. The defect of the system is that some of the high men may be dropped before they have received all of the second choices which are due them.

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